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TWENTY-EIGHTH ANNUAL REPORT

OF THE

INTERSTATE COMMERCE COMMISSION

(IN TWO PARTS)

DECEMBER 1, 1914

PART I

(Part II is a Detailed Statement of Appropriations and Expenditures
and of Persons Employed by the Commission)



WASHINGTON
GOVERNMENT PRINTING OFFICE

1914

THE INTERSTATE COMMERCE COMMISSION.

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REPORT

OF THE

INTERSTATE COMMERCE COMMISSION.

WASHINGTON, D. C., *December 1, 1914.*

To the Senate and House of Representatives:

The Interstate Commerce Commission, in compliance with the statute, has the honor to submit herewith its twenty-eighth annual report to the Congress. Heretofore our reports have covered a period of one year, up to December 1, but owing to the provision of section 9 of the sundry civil bill, enacted in August last, requiring the substance of the annual reports to be in the hands of the Public Printer by November 15 of each year, this report in the main covers a period of eleven months, beginning December 1, 1913, and ending October 31, 1914. As to the fourth section, the twelve months ended October 31 are covered inasmuch as our last report covered a corresponding period. The figures of the division of statistics and the report as to the division of safety are for the fiscal year ended June 30, 1914.

A statement of appropriations for and aggregate expenditures by the Commission for the fiscal year ended June 30, 1914, is embodied in this report, but the statement showing the names of employees and expenditures in detail constitutes Part II of the report.

The work of the Commission continues to increase in volume, as is indicated by the subsequent pages of this report, from which it will also be noted that the Commission has during the past year been called upon by the Senate or the House of Representatives to make a number of investigations.

The Commission has organized a board of examiner-attorneys, and has also increased in strength and number its general examining corps, with a view to expediting the taking of testimony and assembling therefrom the pertinent facts. It is believed that these changes in its organization will enable the Commission to keep well abreast of its work.

INFORMAL DOCKET.

When an informal complaint is received respecting any matter within the jurisdiction of the Commission, it is taken up with carriers by correspondence in an effort to secure adjustment or satisfaction of the complaint. These complaints are given serial numbers

upon what is known as the Informal Docket of the Commission. During the past 11 months 7,600 such complaints have been received, as compared with 7,145 received during the corresponding period of the preceding year, an increase of 455.

SPECIAL DOCKET.

Upon our Special Docket, which covers applications by carriers for authority to refund to shippers amounts which have been collected in accordance with tariffs, but which, for one reason or another, were conceded to have been unreasonable, 5,514 applications have been filed during the period covered by this report. This is a decrease of 739 as compared with the corresponding 11 months of the preceding year. During the 11 months ended October 31, 1914, orders upon this docket have been issued in 5,604 cases, an increase of 1,243 over the corresponding 11 months of the preceding year. Reparation has been awarded thereunder in the sum of \$411,372.54, an increase over the same period of the preceding year of \$91,302.35. During the 11 months' period of this report 1,908 cases have been dismissed or otherwise disposed of without the making of orders for reparation, an increase of 343 over the same period of the preceding year.

FOURTH SECTION DOCKET.

During the year ended October 31, 1914, 950 special applications were filed for relief from the provisions of the fourth section, a decrease of 302 as compared with the preceding year. For the same period 1,086 fourth-section orders were issued, 265 of which were permanent in character and 821 for temporary relief. Thirty-eight applications were withdrawn. This is a decrease of 246 applications as compared with the number disposed of during the preceding year.

A brief reference to this part of our work appears in another portion of the report.

INVESTIGATION AND SUSPENSION DOCKET.

The number of proceedings instituted on this docket during the period from December 1, 1913, to October 31, 1914, inclusive, is 188, an increase of 45 as compared with the corresponding 11 months of the preceding year. One hundred and forty-seven such cases were disposed of during the period of this year above referred to. In 27 instances the tariffs under suspension were voluntarily withdrawn by the carriers; in 6 instances the protests were withdrawn and the proceedings subsequently dismissed; in 44 instances the proposed changes were allowed as filed; in 25 instances they were al-

lowed in part; in 42 instances they were disallowed; and in 3 instances proposed reduced rates were afterwards justified by the carriers and our order of suspension vacated. In 1 instance the increased rates under suspension were, after hearing, required to be canceled, but upon rehearing were permitted to become effective. During the period covered by this report the Commission declined to suspend tariffs in 205 instances, an increase of 20 as compared with the corresponding 11 months' period of the preceding year.

Further reference to this work will be found in another portion of the report.

FORMAL DOCKET.

The number of formal complaints filed during the 11 months' period covered by this report is 1,081, an increase of 131 as compared with the corresponding period of the previous year. During the same period 643 cases have been decided and 179 have been dismissed by stipulation or otherwise, making a total of 822 cases disposed of, as compared with 821 during the same period of the preceding year.

During the same period the Commission has conducted 1,461 hearings, as compared with 1,227 hearings during the corresponding period of the preceding year, in the course of which approximately 165,000 pages of testimony have been taken.

INVESTIGATIONS.

The following investigations have been concluded:

Investigation entered in response to Senate resolutions of June 10 and July 2, 1913, concerning the financial history, corporate relationships, investments, capitalization, indebtedness, and receiverships of the St. Louis & San Francisco and the Chicago & Eastern Illinois Railroad Cos. Report was made to the Senate January 20, 1914, and appears in 29 I. C. C., at page 139.

In response to Senate resolution dated July 10, 1913, investigation was instituted concerning a proposed issue of bonds by the New York Central & Hudson River Railroad Co. Report was made to the Senate April 13, 1914, and appears in 30 I. C. C., at page 47.

Responsive to Senate resolution dated February 7, 1914, investigation was instituted into the financial transactions of the New York, New Haven & Hartford Railroad Co. Report was made to the Senate on July 11, 1914, and is found in 31 I. C. C., at page 32.

Investigation instituted by the Commission on its own motion as to the rates and manner of conducting the business of the Muncie & Western Railroad. Reported in 30 I. C. C., at page 434.

Investigation initiated by the Commission with respect to the issuance, form, and substance of receipts and freight bills. Reported in 29 I. C. C., at page 496.

The following investigations, continuing in their nature, are open. Reports therein have been made as noted:

Investigation responsive to joint resolution of Congress of March 7, 1906, amended March 21, 1906, directing the Commission to investigate as to transportation by common carriers of coal or oil owned directly or indirectly by them, and as to direct or indirect ownership by carriers of coal or oil properties, and as to systems of car supply and distribution by railroads engaged in the transportation of coal or oil. Reports have been made January 25, 1907, House of Representatives Document 561, Fifty-ninth Congress, second session; January 28, 1907, House of Representatives Document 606, Fifty-ninth Congress, second session; April 28, 1908, Senate Document 450, Sixtieth Congress, first session; May 10, 1909, Senate Document 39, Sixty-first Congress, first session; and June 9, 1914, in 31 I. C. C., at page 193.

Investigation ordered by the Commission concerning rules and regulations for the transportation of dangerous articles. Regulations were prescribed effective March 31, 1912, and were revised effective October 1, 1914.

Investigation directed by the Commission in the matter of rates, practices, accounts, and revenues of express companies. Reports appear in 24 I. C. C., at page 380, and in 28 I. C. C., at page 131. Certain questions as to commodity rates and form of commodity tariffs are pending.

Investigation instituted by the Commission into the issuance and use of passes and franks and as to free passenger service. Reports appear in 26 I. C. C., at page 491, and in 29 I. C. C., at page 411:

Investigation initiated by the Commission concerning the rates, practices, and regulations applicable to the transportation of import traffic versus the rates, practices, and regulations applicable to domestic traffic.

The following investigations are pending, and as to some of them the work is near completion:

Investigation responsive to Senate resolution dated November 6, 1913, concerning the financial relations, rates, and practices of the Louisville & Nashville Railroad Co., the Nashville, Chattanooga & St. Louis Railway Co., and other carriers. This investigation is delayed by litigation over the question of the Commission's right of access to certain files of the carriers.

Investigation responsive to Senate resolution dated May 16, 1914, calling for certain information as to common control or ownership between rail carriers and water carriers.

Investigation responsive to Senate resolution dated September 28, 1914, concerning past and present conditions with respect to production, transportation, and marketing of crude petroleum.

Investigation responsive to Senate resolution dated February 2, 1914, as to alleged rebates to the United States Steel Corporation.

Investigation responsive to Senate resolution dated October 7, 1914, relative to the ownership, control, and management of the Little Kanawha Railroad Co.

Investigation instituted by the Commission concerning the service, physical condition of equipment, and property, finances, transactions, and practices of the Pere Marquette Railroad Co.

Investigation ordered by the Commission concerning service, physical condition of equipment and property, finances, transactions, and practices of the Cincinnati, Hamilton & Dayton Railway Co.

Investigation instituted by the Commission concerning the financial transactions of the Chicago, Rock Island & Pacific Railway Co. and its affiliated corporations.

Investigation ordered by the Commission concerning the divisions or allowances granted to short lines of railroad serving iron and steel industries. Original report appears in 29 I. C. C., at page 212. Supplemental report in the light of the decision of the Supreme Court in the *Tap Line cases* appears in 32 I. C. C., at page 129.

Investigation initiated by the Commission as to rates and practices involved in the transportation of live stock from southwestern points to packing-house points, and on packing-house products and fresh meats from such packing-house points. Reports appear in 22 I. C. C., at page 160; 23 I. C. C., at page 656; and 28 I. C. C., at page 332.

Investigation directed by the Commission in the matter of allowances to the Kanawha, Glen Jean & Eastern Railway and the White Oak Railway by the Chesapeake & Ohio Railway Co. and the Virginian Railway Co.

Investigation instituted by the Commission concerning rules, regulations, and practices with respect to the issuance, transfer, and surrender of bills of lading. Preliminary report is found in 29 I. C. C., at page 417.

Investigation ordered by the Commission as to the handling, icing, etc., of, and allowances in connection with the use of, private cars.

Investigation initiated by the Commission concerning rates, practices, rules, and regulations in connection with the transportation of anthracite coal in official classification territory.

Investigation directed by the Commission as to rates, practices, rules, and regulations in connection with the transportation of cement, iron ore, iron and steel and their products.

Investigation instituted by the Commission as to classification, regulations, and practices with respect to articles that are too long or too bulky to be loaded through the side doors of closed cars.

Investigation initiated by the Commission concerning the transportation of iron ore from points in Minnesota to Duluth, Minn., and Superior, Wis., for shipment beyond.

Investigation ordered by the Commission concerning rates, rules, regulations, and practices governing contracts for private telegraph and telephone wires.

Investigation directed by the Commission into the history, financial operations, rates, rules, and regulations of telephone and telegraph companies.

Investigation initiated by the Commission relative to safety appliances on equipment of railroads in Porto Rico.

Investigation ordered by the Commission concerning the revenues of rail carriers in official classification territory. Original report appears in 31 I. C. C., at page 351. The matter is now pending on further hearing.

Investigation directed by the Commission as to the reasonableness of rates on iron ore from Lake Erie ports to points in Ohio, West Virginia, and Pennsylvania, and as to the proper grouping of destination points and the relationships of the groups to one another.

Investigation instituted by the Commission concerning the practices of carriers in leasing facilities and other property to shippers.

Investigation directed by the Commission concerning the transportation of freight at released and nonreleased rates.

Investigation ordered by the Commission concerning the rules, regulations, and practices of carriers in establishing embargoes against freight shipments.

RATE SCHEDULES AND APPLICATION OF RATES.

During the 11 months ended October 31, 1914, 149,031 publications containing rates, classifications, fares, or charges were filed with the Commission. This is an increase of about 35,800 over the corresponding 11 months of the preceding year. The rate work of the Division of Tariffs has steadily increased, and through this division the Commission continues to render helpful service to State commissions, shippers, and carriers.

There has been no change in the situation stated in our twenty-fifth annual report as to the application of section 6 of the act and of the Elkins Act to telephone, telegraph, and cable companies.

DIVISION OF INQUIRY.

Between December 1, 1913, and November 1, 1914, 58 indictments have been returned for violations of the act to regulate commerce and the Elkins Act. The number of defendants, however, is much greater than this would indicate, because many of the indictments

were against two or more defendants jointly. Twenty of the indictments were against carriers or carriers' agents and 38 were against passengers, shippers, or interested parties other than carriers.

During the 11 months 80 prosecutions have been concluded. In 64 cases the defendants entered pleas of guilty or *nolo contendere*; in 4 cases juries rendered verdicts of guilty; in 1 case the jury disagreed; and 11 cases, upon motion of the Government, were dismissed. In the case of all of the indictments dismissed the defendants pleaded guilty to alternative indictments based upon the same facts.

The penalties imposed ranged in amount from \$50 to \$42,000, aggregating the sum of \$204,506 for the 11 months.

The prosecutions begun and concluded during the period covered by this report were distributed over the following states: Alabama, California, Georgia, Idaho, Illinois, Kansas, Louisiana, Michigan, Minnesota, Missouri, New Jersey, New York, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Texas, Virginia, Washington, and Wisconsin.

Several cases involving construction of the Elkins Act have been decided by the courts during the past 11 months. The most important of these are briefly summarized below:

In *Hocking Valley Railroad Co. v. United States*, 210 Fed., 735, the Circuit Court of Appeals for the Sixth Circuit, upon a writ of error from a judgment imposing a fine of \$42,000, affirmed in general the findings of the lower court, 194 Fed., 234. Following the decision a writ of certiorari was denied by the Supreme Court. This case established the proposition that the extension of credit to one shipper for several months, in pursuance of an arrangement made prior to transportation, while credit is accorded to other shippers for one month only, is a discrimination in violation of the Elkins Act, even though such favored shipper pays legal interest beyond the first month upon the amount for which credit is granted. The defendant urged that the prohibition against discrimination contained in the Elkins Act was qualified by the word "undue," which is employed in the prohibition against discrimination in section 3 of the act to regulate commerce. The court, however, held that it was not necessary to find that the discrimination was undue, but merely that it was material and substantial. In view of the burden that would rest upon the Government under the construction that had previously been given to the phrase "undue discrimination," the definition of this offense announced in the *Hocking Valley* case is deemed to be of much importance. It is also worthy of note that the court in this case found no merit in the contentions that before there could be a conviction for discrimination there must be a finding by the Commission that such discrimination existed or that discrimination could be found to exist only where evidence was offered that other shippers

had asked for and been denied the same treatment that was accorded the favored shipper. In *Sunday Creek Co. v. United States*, 210 Fed., 747, which involved an indictment against the shipping company that had accepted the discrimination accorded by the Hocking Valley Railway Co., the judgment assessing a fine of \$2,000 was also affirmed, 194 Fed., 253.

In *Grand Rapids & Indiana Railway Co. v. United States*, 212 Fed., 577, the Circuit Court of Appeals for the Sixth Circuit affirmed the decision in the lower court in which a verdict of guilty had been found against the carrier and a fine of \$14,000 imposed. This case is significant because it gives the broadest construction to the word "knowingly" as used in the Elkins Act that has yet been announced by the courts. The indictment was based upon the fact that, in violation of transit rules published in the carrier's tariff, transit privileges had been allowed at certain points and the through rate applied on outbound shipments, although inbound billing which could rightfully be used in connection with such outbound shipments was not surrendered. The inbound shipments had been consumed at the transit point, but the evidence failed to show that the particular agents of the carrier who handled the outbound shipments had knowledge of this fact. The defendant insisted that in view of this lack of knowledge as to the whole situation on the part of any one of its agents it could not be said that the concession charged had been "knowingly" granted by the corporation. In the opinion of the lower court, which unfortunately is not published, Judge Sessions ruled that if the defendant actually knew, or if from all of the evidence the jury found that it ought to have known, the facts which made the application of the through rate improper, then the jury might find that the defendant possessed all the knowledge requisite to support conviction. The circuit court of appeals, in affirming this decision, declared that the fact that the agent of the carrier who handled the outbound shipment did not know that the inbound shipment had been disposed of locally was no defense if records and documents showing all of these facts were on file in the office of the carrier. The opinion therefore stands for the very important principle that carriers under the act are responsible for the acts of all of their agents and that the combined knowledge and conduct of all the agents of a carrier can be imputed to the corporation.

Nichols & Cox Lumber Co. v. United States, 212 Fed., 588, involved an indictment against the shipping corporation which improperly secured the transit privileges referred to in the *Grand Rapids & Indiana Railway case, supra*. In the lower court a verdict of guilty was rendered and a fine of \$3,000 imposed upon this company. In the higher court the defendant urged that since the evidence showed that the shipper at the time of re-

shipment had in his possession inbound expense bills which might rightfully have been used as a basis for securing the transit rate applied on the outbound shipments, no injury had been done the carrier and no advantage had been secured over other shippers by reason of the fact that other bills were actually used. The court gave little weight to this suggestion, emphasizing the point that the tariff made the presentation of proper billing a condition precedent to the application of the transit rate, and that the tariff provision must be observed absolutely before the transit rate could lawfully be enjoyed.

This case also contains a very important holding as to what knowledge on the part of the defendant is necessary to sustain a prosecution for a violation of the Elkins Act. The defendant urged that the shipper had misinterpreted the transit tariff, supposing in good faith that, so long as it possessed inbound billing upon which the outbound shipments could go forth at the transit rate, it made no difference whether the particular billing was presented or not. In dealing with this suggestion the court definitely announced that even in a criminal case the shipper's knowledge of the lawful rate will be presumed. A similar holding had previously been announced as controlling in civil cases. *Chicago & Alton R. R. Co. v. Kirby*, 225 U. S., 155.

In the case of *United States v. Vandalia Railroad Co.*, unreported, U. S. District Court, Southern District of Illinois, the defendant was found guilty of granting concessions and a fine of \$2,000 was imposed. The evidence showed that the Vandalia Railroad Co., through a subsidiary company, had borrowed money from a bank at 4 per cent interest, and had loaned this money to the Lumaghi Coal Co. at 2 per cent interest upon condition that this coal company would route all of its interstate shipments over the carrier's line. The case emphasizes the doctrine laid down in the *Armour case*, 209 U. S., 56, that all devices for granting concessions and rebates are in violation of the Elkins Act. A motion for a new trial and a motion in arrest in this case were denied. The case is now pending on a writ of error in the Circuit Court of Appeals for the Seventh Circuit.

United States v. Erie Railroad Co. and W. S. Cowie, unreported, U. S. District Court, District of New Jersey. The provision of the Erie Railroad tariff defining the traffic from New York on which import rates will apply, which is similar to the rule of the other trunk lines, states that import rates will apply on shipments "received at ship side or dock of steamer upon which imported or from bonded warehouse or appraiser's store." Investigation showed that while a certain shipment of valonia had been imported, it was originally landed in Brooklyn and later placed in a free-storage house on Staten Island, whence it was shipped over the

Erie Railroad. It was clearly, therefore, not received by the Erie Railroad Co. at any of the places from which the import rate was applicable. Since the rule referred to determines the rates to be applied on a very large part of the total import traffic received at the Atlantic gateways, its strict observance is necessary if discrimination between importers is to be avoided and fair competitive conditions between the carriers are to be maintained. Indictments were secured against the Erie Railroad Co. and W. S. Cowie, its general eastern freight agent, and also against Walter Hastings, of the partnership of Marden, Orth & Hastings, by whom the shipment was tendered. After an extended trial of the indictment against the carrier and its agent the jury acquitted W. S. Cowie, but found the railroad company guilty. The court, in instructing the jury, followed the decision in *G. R. & I. Ry. Co. v. U. S.*, *supra*, ruling that even though actual knowledge of the tariff condition making the import rate inapplicable were not proved, yet a verdict of guilty should be returned if facts were proved from which the jury could infer beyond a reasonable doubt that the agents of the defendant willfully remained ignorant of facts making this rate inapplicable. A motion for a new trial and a motion in arrest of judgment are now pending. Disposition of the case against Walter Hastings is awaiting decision on these motions in the case against the carrier.

United States v. Pennsylvania Railroad Co., Harvie C. Miller, and John F. McLaughlin, unreported, U. S. District Court, Eastern District of Pennsylvania.

The several indictments returned against the Pennsylvania Railroad Co., Harvie C. Miller, John F. McLaughlin, and the members of the firm of Miller & Sons, based upon the improper conduct of the Keystone Elevator at Philadelphia by the Miller interests for the Pennsylvania Railroad Co., have also been concluded. Beginning as far back as 1909, investigations showed that through the community of interest of the grain firm of Miller & Sons at Philadelphia and the management of the Keystone Elevator, a facility of the Pennsylvania Railroad Co., this shipping company was, by various devices, securing substantial advantages over other shippers in connection with the large volume of grain shipped by it. Certain of these irregularities were called to the attention of the Pennsylvania Railroad Co. by the Commission in its formal report *In the Matter of Keystone Elevator Co.*, 25 I. C. C., 618, rendered in January, 1913. In spite of the opportunity thus given to the carrier to correct the practices at this elevator, subsequent investigations disclosed the fact that the Miller firm was still securing advantages through the non-collection of demurrage, elevation, and storage charges, which were published in the tariffs of the Pennsylvania Railroad Co., and through other irregularities dealt with in the report. The indict-

ment against the Pennsylvania Railroad Co., Harvie C. Miller, and John F. McLaughlin went to trial. After a trial lasting 30 days the jury disagreed. Subsequently these three defendants offered to enter a plea of guilty to certain of the counts charging a failure to observe elevation charges and to pay a substantial fine. Accordingly pleas of guilty to such counts were filed and a fine of \$4,000 was assessed against the Pennsylvania Railroad Co., Harvie C. Miller, and John F. McLaughlin, or an aggregate of \$12,000, in settlement of the case. All of the other counts were then dismissed.

FRAUDULENT CLAIMS.

The filing of fraudulent claims for loss or damage was first made an offense by the amendments of 1910 to section 10 of the act to regulate commerce. There have been several indictments under this provision of the law during the past year, including those against Davidson Bros., Morris H. Biederman, secretary of the Kavanaugh-Biederman Produce Co., both of St. Louis; the Gamble-Robinson Commission Co., at Minneapolis; and the Wisconsin Auto Sales Co. and Orton C. Collins, its sales manager, at Milwaukee. These cases will be pressed to a conclusion at an early date. Their final disposition will furnish the first judicial construction of the false-claims provision of section 10 as amended.

FAILURE OF CARRIERS TO ADJUST OVERCHARGE CLAIMS.

Under section 6 of the act it is as much an offense for the carrier to charge more than the lawful rate as to charge less, although prosecution for the former offense has not until recently been undertaken. Last year, however, indictments were secured under this provision against the St. Louis & San Francisco Railroad Co., the Adams Express Co., and the American Express Co. for charging more than the lawful rates. During the period covered by this report penalties for this offense were imposed as follows: In the eastern district of Missouri the St. Louis & San Francisco Railroad Co. offered a plea of guilty and a fine of \$500 was assessed; in the southern district of Ohio the Adams Express Co. offered a plea of *nolo contendere* and a fine of \$1,000 was assessed; and in the western district of New York the American Express Co. offered a plea of *nolo contendere* and a fine of \$500 was assessed.

UNLAWFUL USE OF PEDDLER CARS.

Swift & Co., the Ann Arbor Railroad Co., and the Saginaw Beef Co. have been indicted for irregular practices in connection with the shipping of packing-house products in so-called peddler cars. Investigation disclosed that Swift & Co. for some years have been mak-

ing shipments of packing-house products from Chicago to points located on the Ann Arbor Railroad consigned to the Saginaw Beef Co. at carload rates, although each carload shipment was distributed in less-than-carload lots at stations on the Ann Arbor Railroad intermediate to the billed destination. The result of this practice was to defeat the less-than-carload rates lawfully applicable. Accordingly, indictments were returned in the western district of Michigan against the Ann Arbor Railroad Co. for granting, and against the Saginaw Beef Co. for receiving, concessions. Both of these companies entered a plea of guilty and a fine of \$8,000 was assessed against each. An indictment was also returned in the northern district of Illinois against Swift & Co., the consignor, in 60 counts for its participation in this practice. This indictment, which is still pending, charges violations of the Elkins Act on the part of Swift & Co. by accepting concessions from the Ann Arbor Railroad Co.

FUEL COAL BILLED TO FICTITIOUS DESTINATIONS.

It is still the practice of certain carriers to have company coal originating on the lines of other carriers billed to fictitious destinations beyond the actual destinations and thus secure the transportation thereof at a division of a through rate which is less than the local rate to the point of unloading or less than the proper division of the through rate accruing to the other carrier, although the Supreme Court as far back as 1912, in *I. C. C. v. B. & O. R. R. Co.*, 225 U. S., 326, clearly indicated the unlawfulness of such a practice. Since that time indictments have been secured and substantial fines assessed against the New Orleans & Northeastern Railroad and the Seaboard Air Line for this offense. During the year indictments based upon the same practice were returned against the Lehigh & Hudson River Railroad and Morris H. Rutherford, its vice president. A total fine of \$10,000 was assessed. Two indictments were also returned against the Grand Trunk Railway Co. for this offense—one in Ohio and the other in Illinois—which resulted in fines of \$5,000 in each case. In connection with this latter indictment the O'Gara Coal Co., which shipped the fuel coal to the Grand Trunk Railway Co., was indicted for receiving concessions. The coal company entered a plea of guilty and a fine of \$3,000 was assessed. Recent investigations by the Commission have disclosed still other instances of this practice, and these will be the subject of further indictments until the practice entirely disappears.

RELATIONS BETWEEN NEW YORK CENTRAL LINES AND THE O'GARA COAL CO.

The investigation made by the Commission of the relations between the New York Central lines and the O'Gara Coal Co. resulted

in several indictments. Some of these have been settled during the year, while others are still pending. An indictment was returned in the eastern district of Illinois against the Cleveland, Cincinnati, Chicago & St. Louis Railway Co. and the Chicago, Indiana & Southern Railway Co. for granting concessions to the O'Gara Coal Co., and another indictment against the former carrier alone for discriminating in favor of this shipper. These indictments were disposed of by pleas of guilty and fines aggregating \$15,000 were assessed. In addition to indictments which were pending in the northern district of Illinois against the Lake Shore & Michigan Southern Railway Co., the Big Four Railway Co., the Chicago, Indiana & Southern Railway Co., the O'Gara Coal Co., and certain individuals, other indictments were returned in July against the above-named carriers, the O'Gara Coal Co., and certain individuals, for conspiracy and the granting and receiving of concessions. These indictments are all based upon facts developed in the course of the Commission's investigation in compliance with the terms of the Tillman-Gillespie resolution and recently announced in its report to the Senate.

FALSE DESCRIPTION OF SHIPMENTS.

The false billing of shipments of freight has been the subject of numerous investigations by representatives of the Commission. An extensive investigation in New York disclosed a large number of instances where shippers were falsely describing their shipments or falsely reporting the weights. Indictments against some 20 firms and individuals were secured in this district, which resulted in every case in a plea of guilty and the imposition of a fine. All of these indictments were based upon attempts rather than upon completed offenses, and since the attempts were in each case first attempts and pleas admitting guilt were tendered, the fines were comparatively light. Investigations have also been made in several other large shipping centers throughout the country and indictments for similar offenses have been secured, or will be sought in the near future, against shippers located in St. Louis, Kansas City, Peoria, Chicago, Minneapolis, St. Paul, and other places. In many cases investigated it is urged in defense that the false description is the result of inadvertence. But the loss to the carriers is so great and the discrimination against competing shippers who are scrupulous in the preparation of their shipping papers is so serious that the situation appears to demand a vigorous enforcement of section 10 of the act. Having this in mind, prosecution will be undertaken in all cases brought to the attention of the Commission where shippers persist in falsely describing their shipments or falsely reporting the weights thereof.

Instances of false billing are difficult of detection except by the carriers themselves. The practice of false billing is widespread, and it has been stated that it results in the loss of millions of dollars annually to the carriers of the country as a whole. Many carriers have in the past been reluctant to call to the attention of the Commission instances where shippers have violated this and other sections of the act, influenced, no doubt, by competitive considerations. The public duty, however, that carriers and their agents owe to secure for all shippers lawful rates should outweigh the private interest which has led carriers in the past to protect offending shippers; and it is gratifying to report that a new spirit of co-operation on the part of officers and agents of numerous carriers has recently been noted, with the result that much progress is being made in stamping out the practice of false billing.

Some recent false billing cases, and more especially those involving transit privileges, have disclosed a curious misapprehension upon the part of certain shippers as to their duty under the law. For example, certain shippers, in answer to the charge that they had been misdescribing shipments, have replied, with apparent confidence in the justice of their position, that the provisions of the classification fixing the rating on the commodities shipped by them were unreasonable, and for this reason they did not feel obligated to observe them. Again, certain shippers, when advised that they were violating the provisions of a transit tariff by substitution, have replied that the provisions in question were unreasonable, that there was nothing in the law forbidding substitution, and therefore they did not feel bound by such tariff requirements. Of course, such a position is utterly untenable. The tariffs and classifications lawfully filed with the Commission are binding upon carrier and shipper alike, no matter how unreasonable any rule or rate therein may appear to any individual. The Supreme Court in the case of *T. & P. Ry. Co. v. Abilene Cotton Oil Co.*, 204 U. S., 426, held that not even a Federal court may declare an interstate rate or tariff rule unreasonable, the exclusive jurisdiction over such matters resting with this Commission. It is obvious that a shipper can not, on his own account, pass upon the reasonableness of tariff rules or regulations. If such a rule or rate is deemed to be unreasonable, the shipper should protest by formal complaint to the Commission, and pending the determination of such complaint the only lawful course is for both shipper and carrier to observe faithfully the rules and rates as published.

THE UNLAWFUL USE OF PASSES.

Numerous prosecutions for the unlawful use of passes have been instituted. As evidencing the view of the courts as to the gravity of this offense, it is instructive to note that in the northern district of

Alabama, upon a plea of guilty being entered by Aaron Wheeler to an indictment charging unlawful use of a pass from Birmingham to Memphis, the court promptly imposed a sentence of 13 months in jail. Prosecutions in pursuance of the Commission's views expressed in conference ruling 95-g, that it is unlawful for a carrier to issue passes to employees of other carriers not subject to the act, are being deferred pending a final decision of the issues involved in *United States v. Erie Railroad Co.*, not yet reported, recently decided in the southern district of New York. In this case, which was in equity, the court held, contrary to the Commission's conference ruling, that it was lawful for a carrier to issue such passes. The Government has appealed this case to the Supreme Court, where it has been advanced upon the calendar. An early decision is expected.

VIOLATIONS OF THE COMMODITIES CLAUSE.

Under the commodities clause the Pennsylvania Railroad Co. has recently been indicted in 25 counts. The case is of interest not merely because it is one of the few prosecutions undertaken for violating the commodities clause, but also because the carrier was not shown on the billing as the shipper although in fact deemed to be such. The Pennsylvania Railroad Co. owns all of the securities of the Susquehanna Coal Co. This coal company ships immense quantities of anthracite coal mined on land owned by the Pennsylvania Railroad Co. and its subsidiaries. Investigation disclosed the fact that the Pennsylvania Railroad Co. supplies the Susquehanna Coal Co. with large amounts of capital and working funds and that the affairs of the coal company are dictated entirely by the traffic officials of the railroad company. It was believed that these facts, in addition to stock ownership, evidence such commingling of the affairs of the carrier and the shipping corporation as the Supreme Court declared in *United States v. Lehigh Valley Railroad Co.*, 220 U. S., 257, would come within the prohibition of the commodities clause. The only previous criminal prosecution under the commodities clause was that against the Delaware, Lackawanna & Western Railroad Co., 231 U. S., 363. In that case, however, the carrier itself appeared on the billing as the shipper. The case is expected to go to trial in the immediate future.

LEASING OF TERMINAL FACILITIES.

The leasing of land, warehouses, and other property by carriers to interstate shippers at less than a fair rental value, or subletting such properties to shippers at less than the rental paid by the carriers themselves, or the assuming of part of the rental obligations of an interstate shipper for the purpose of influencing the routing of interstate shipments, are all deemed, in view of the Supreme Court's

decision in the *Union Stock Yards case*, 226 U. S., 286, and that of the Circuit Court of Appeals in the *Hirsch case*, 204 Fed., 849, to be devices in violation of the Elkins Act. Numerous investigations have been made during the year where such violations appeared to exist. In May an indictment was returned in California against the Southern Pacific Co. for this offense. It appeared that the Southern Pacific Co. leased a warehouse for \$150 per month and then sublet it to the Redlands Golden Orange Association at a rental of \$81.35 per month. The carrier pleaded guilty and paid a fine of \$1,000 and costs. An indictment was secured over a year ago against the Wichita Falls & Northwestern Railway Co., based upon similar facts, to which the carrier pleaded guilty and a fine of \$1,000 was assessed. In July an indictment in five counts was returned against the Delaware, Lackawanna & Western Railroad Co. for granting concessions, and against the Delaware, Lackawanna & Western Coal Co. for receiving concessions. These indictments were based upon evidence that the railroad company had leased coal trestles in Buffalo valued at approximately \$200,000 to the coal company for a rental of \$48 per year. The Northern Central Railway Co., a subsidiary of the Pennsylvania Railroad Co., was recently indicted upon the following facts: The Northern Central leased coal land to the Mineral Railroad & Mining Co. in consideration of a royalty of 28 cents per ton mined. The evidence showed that this rental, which amounted to almost \$500,000 per year, has never been paid by the Mineral Railroad & Mining Co. and that the Mineral Railroad & Mining Co., through the agency of the Susquehanna Coal Co., makes large shipments of anthracite coal over the lines of the Northern Central Railway Co. Here, again, it was believed that the elements of the device condemned in the *Union Stock Yards case* for the granting of concessions were present and the indictment in 50 counts was based upon this theory. The early prosecution of similar cases involving shippers as well as carriers is contemplated.

FREE TRANSPORTATION OF PROPERTY FOR OFFICIALS OF CARRIERS.

Several instances where small railroad companies have become involved in violations of the act through the efforts of their responsible officers to discriminate in favor of business ventures in which they were engaged have been called to our attention. Such cases might be described collectively as instances of "official graft." For example, an indictment was secured against the Spokane International Railway Co. and its vice president, Austin Corbin, 2d. Mr. Corbin, it appears, was the owner of a ranch located on the line of this carrier, which he controlled. Investigation showed that through the influence of Mr. Corbin the Spokane International Railway Co. carried shipments of grain, wood, and other commodities to

and from his ranch, billing them as company material, although the property belonged to him personally. Pleas of guilty were tendered and a fine of \$5,000 was assessed against the corporation and \$5,000 against Mr. Corbin. Another indictment based on facts similar to the above was that returned against the Washington, Idaho & Montana Railway Co. and John B. Morrissey, its superintendent. Pleas of guilty were tendered by both the railroad and Morrissey and a fine of \$1,000 was assessed against each of them.

INDUCING CONCESSIONS.

One provision of section 10, as amended in 1912, has been applied for the first time in two or three recent cases, namely, that provision which makes it a misdemeanor for a shipper to induce an agent of a carrier to discriminate in his favor. Frank G. Miller, president of the Defiance Packing Co., at Defiance, Ohio, on several occasions paid small amounts to a station agent to induce him to issue bills of lading prior to the receipt of the property described thereon. Such a privilege is more favorable than that commonly accorded to shippers, and amounted to a discrimination in favor of the packing company besides being unlawful under other sections of the act. An indictment was returned upon this theory and the defendant pleaded guilty. It is believed that this provision of the act will prove serviceable in reaching offenders who secure advantages in service as substantial as if they were enjoying reduced rates, but who can not be indicted under the Elkins Act.

MAKING FALSE ENTRY IN RECORDS OF CARRIERS.

During the year several significant cases have been brought under section 20. For example, indictment was secured against William Cox, an employee of the St. Louis Southwestern Railway Co., for making false entries in certain of its station records. The defendant pleaded guilty and was fined \$2,000. Again, Glen B. Miller, a shipper, was indicted for antedating bills of lading, upon the theory that the bill of lading was a record of the carrier and the date inserted was a false entry. Miller also pleaded guilty and was fined. In the course of our examination of the correspondence files of the Southern Pacific Co., at San Francisco, obstruction was met with on the part of this company, which asserted that while under section 20 the Commission and its examiners could require access to all "accounts, records, and memoranda" of an interstate carrier, yet the correspondence files, to which access was sought, did not come within this description. Carriers almost without exception have conceded that correspondence files were included in the term "memoranda" to which the Commission is granted access. Since section 20 makes it a penal

offense for a carrier to refuse the Commission or its duly authorized agents access to its accounts, records, and memoranda, a civil suit has been brought against the Southern Pacific Co., for refusal of access, to recover a penalty of \$500 per day for a stated period during which this offense continued. The carrier demurred, the demurrer has been argued, and a decision by the district court is expected soon. The detection of violations of the law and the proof of unlawful intent on the part of common carriers and their agents is so largely dependent upon access being granted to the correspondence files of carriers that if the present law should be construed contrary to the Commission's interpretation additional legislation would be necessary in order to accomplish this end.

The above summary takes account only of the more significant investigations by the division which have culminated in prosecutions. While the work of the division consists primarily in investigating violations of the act and in preparing such cases for prosecution, only a small percentage—perhaps 20 per cent—of the matters investigated lead to prosecution. In numerous cases, while facts calling for prosecution were not disclosed, situations were presented which demanded readjustment and the division, by correspondence and conference with the interested or responsible parties, has been instrumental in bringing about better understandings between carriers and shippers. In a great number of cases opinions and suggestions have, upon request, been furnished to both carriers and shippers on questions of law involving transportation practices which were considered to be questionable in character.

Summaries of indictments returned and cases concluded between December 1, 1913, and November 1, 1914, will be found under Appendix A.

THE FOURTH SECTION.

In our annual reports for 1912 and 1913 reference was made to the applications of the transcontinental carriers for relief from the provisions of the fourth section of the act as to rates on westbound freight traffic from eastern defined territories to Pacific coast terminals and intermediate points. In our annual report for 1912 we said:

The various phases of this section of the act as last amended and the interpretation and application, as well as the constitutionality thereof, were referred to in our last annual report to the Congress and were discussed at length before the Supreme Court last spring in the argument of the so-called Intermountain cases, which had been appealed from the Commerce Court, the latter having decided adversely to the validity of the orders of the Commission therein. After submission these cases were again assigned for argument and were recently reargued before the full court, the vacancy on the Supreme Bench having been filled since the first argument. It is expected that when they are decided the Commission will be aided by the decision in disposing of many other cases arising under this section.

The Supreme Court handed down its decision in these cases on June 22, 1914, sustaining the validity of the amended fourth section and the order of the Commission. The order had the effect of dividing the United States into five zones, described as follows:

No. 1: All that portion of the United States west of a line drawn from the Canadian boundary on Lake Superior southwest to Sioux City and thence almost due south to the Gulf of Mexico. No. 2: East of zone 1, with its eastern boundary coinciding with a line through the Straits of Mackinaw and south through Lake Michigan, continuing just east of the Illinois-Indiana line and Mississippi River to the Gulf. No. 3: East of zone 2 to a line drawn from Buffalo to Pittsburgh, thence along the Ohio River to Huntington, W. Va., thence to the Tennessee state line in extreme southwestern Kentucky, thence directly south to the Gulf, just east of the Mississippi-Alabama state line. No. 4: All territory east of No. 3 and north of a line following the West Virginia boundary to the Tennessee state line, thence east to the Atlantic. No. 5: All territory east of zone 3 and south of zone 4.

The above zones are exactly defined in *City of Spokane v. Northern Pacific Railway Co.*, 21 I. C. C., 400, 425.

From points in zone 1 the order required the carriers to observe as maximum rates to intermediate points any rates made to Pacific coast terminals. From points in zones 2, 3, and 4 the order authorized the carriers to carry lower rates to Pacific coast terminals than to intermediate points, provided the rates from points in zones 2, 3, and 4 to the intermediate points do not exceed the rates concurrently maintained to the terminals by more than 7, 15, and 25 per cent, respectively.

Subsequent to the announcement of the decision of the Supreme Court the transcontinental carriers applied to the Commission for a modification of the order which would afford them sufficient time to publish and file with the Commission, effective on statutory notice, new schedules of rates conforming to the requirements of the order. They also urged that changed conditions resulting from increased water-carrier competition justified some modification of the order as to the rates on a limited number of commodities respecting which the water competition was alleged to be particularly severe and to have necessitated relatively low rates. These commodities, comprising approximately 110 items, are said to move in large quantities by water from the east to the Pacific coast, and the rates which the rail carriers can obtain on this traffic are alleged to be limited and controlled by the rates of the water carriers. The rail carriers urged that as to these items they should be accorded a further hearing to show that they were entitled to a greater degree of relief than was afforded by the Commission's order. Such hearing was held at Chicago on October 6, 1914, and all interested parties were afforded opportunity to present testimony. Tariffs have been filed, effective November 15, covering all other commodities, more than 400 in number, containing

rates that are in conformity with the rule of the fourth section as modified by the Commission's order.

The most important work was the disposition of portions of a large number of applications of southern carriers, *Fourth Section Violations in the Southeast*, 30 I. C. C., 153. This report covered many routes and rates to points in the territory lying south of the Ohio and Potomac Rivers and east of the Mississippi River. The rates in this territory are probably affected by water competition to a greater degree than in any other large section of the country. Bounded on three sides by navigable waters, pierced by many navigable streams flowing to the ocean, to the Gulf, or to the Ohio or Mississippi Rivers, this territory presents water-competitive conditions at many points which are unlike those prevailing at intermediate points and which necessitate a shrinkage of the rail rates to such competitive points to a level materially lower than would exist were it not for the water competition there encountered. The rail carriers petitioned the Commission for authority to continue to make such rates to and from the water-competitive points as would hold to the rail lines a portion of the traffic.

The testimony offered sought to show:

1. That the lower rates to the more distant points were necessitated by water competition, actual or potential.
2. That these rates were in fact subnormal and less than fair, reasonable, compensatory rates.
3. That although subnormal, these competitive rates yielded to the rail carriers some profit over and above the actual cost of handling.
4. That the rates to intermediate points were not unreasonable as measured by the usual standards by which the Commission tests rates.

Where these four propositions were established the Commission authorized the rail carriers to continue rates to more distant points lower than to intermediate points.

The rates from New York City and related points to South Atlantic and Gulf ports and from Ohio River crossings to New Orleans and other Mississippi River crossings were found to be strongly influenced by water competition, and relief was afforded to the carriers operating routes between such points.

The rates to interior points not located upon navigable streams had in some instances been adjusted by the carriers with relation to the rates to water-competitive points with a view to enabling such interior points to distribute freight in the surrounding country in competition with water-competitive points. The adjustment of rates from many points to Atlanta, Athens, Cordele, and Rome, Ga., Birmingham, Ala., Meridian and Jackson, Miss., and other points similarly situated, lower than to intermediate points was intended to per-

mit those cities to distribute in competition with other points located upon navigable waters. The Commission believes such adjustments of rates to be improper under the fourth section of the act, because it creates undue preference at these points, which are thereby enabled to distribute in competition with other points more favorably located, while intermediate points through which the traffic is carried are charged higher rates and are unable to distribute on equal terms with the points so favored.

The order entered in these cases denied authority to continue lower rates from Cincinnati or Louisville to Atlanta, Birmingham, Cordele, Athens, Jackson, or Meridian than to intermediate points. It also denied authority to continue lower rates via direct lines from New Orleans to the above-mentioned points than to intermediate stations. The interested carriers, in conformity with the order, are making a check of all the rates to all the points involved in this territory. A supplemental report and order, 32 I. C. C., 61, has been issued by the Commission, modifying in certain particulars the original order in such manner as to permit the establishment of a harmonious and properly graded rate structure. This new adjustment is a work of great magnitude and necessitates the reissue of nearly, if not quite, all interstate tariffs in the entire territory involved, covering more than 40,000 miles of railway.

During the year ended October 31, 1914, 950 applications were filed. During the same period 38 applications were withdrawn. During the year 1,086 fourth-section orders have been issued of which 265 were permanent and 821 were for temporary relief. Of the permanent situations passed upon, some measure of relief has been granted in 120 cases and has been denied in 145 cases. Of the 821 temporary applications acted upon, relief has been granted in whole or in part in 690 cases and denied in 131 cases.

Testimony has been heard in regard to several hundred applications filed by western carriers operating in California, Arizona, New Mexico, Washington, and Oregon, and appropriate orders will be issued thereon.

Testimony was taken with reference to the rates on sugar from New Orleans to a large territory lying south of the Ohio River. The situations and conclusions are stated in our report, 31 I. C. C., 495. Testimony was also taken concerning the rates on sugar from New Orleans, La., California, and Colorado points to destinations in Illinois, Wisconsin, Minnesota, Missouri, Arkansas, Oklahoma, Kansas, and Texas, and the conclusions of the Commission are shown in 31 I. C. C., 511.

Substantial progress has been made in reducing the departures from the rule of the fourth section of the act.

SUSPENSION OF PROPOSED CHANGES IN TARIFF SCHEDULES.

In our previous reports referring to the provision of section 15 of the act of June 18, 1910, giving the Commission power to suspend the operation of any new tariff schedule pending investigation of the rates, charges, regulations, classifications, or practices therein contained, the methods of procedure and practice intended to insure a proper discretion in the exercise of this authority have been fully stated, and the Commission's procedure and practice in this respect remain unchanged. The number of proceedings instituted under this docket during the period December 1, 1913, to October 31, 1914 (11 months), is 188, an increase of 45 as compared with the corresponding 11 months of the preceding year. During the same period the Commission has declined to exercise that authority with respect to proposed changes in 205 cases, an increase of 20 as compared with the corresponding 11 months period of the preceding year.

In the appendix containing statement of points decided by the Commission in reported cases during the year are included cases arising upon the investigation and suspension docket. The most important of these is, however, here mentioned:

PROPOSED RATE INCREASES IN OFFICIAL CLASSIFICATION TERRITORY.

By the Mann-Elkins amendment of 1910 the Commission was authorized to suspend tariffs and investigate their propriety before they became effective.

Therefore, and ever since passage of the act to regulate commerce in 1887, carriers had been free to establish charges under pain of making reparation if subsequently found by the Commission to be unjust or unreasonable.

Despite that freedom, they had failed to effect any general advance in any given territory.

The agreement in 1889 of certain trans-Missouri carriers for "establishing and maintaining reasonable rates" was followed in 1890 by the Antitrust act, which was held by the Supreme Court to apply to common carriers by railroad, in *U. S. v. Trans-Missouri Freight Association*, 166 U. S., 290, decided March 22, 1897.

Again, 31 carriers entered into a somewhat similar agreement, which, in turn, was held by the Supreme Court to be violative of the antitrust act, in *U. S. v. Joint Traffic Association*, 171 U. S., 505, decided October 24, 1898.

As mentioned in previous reports of this Commission, tariffs were filed by eastern and western rail carriers in 1910, while the Mann-Elkins bill was pending, proposing certain increased rates. Under direction of President Taft the Attorney General sought and obtained in Missouri an injunction restraining the operation of the

increased western rates. This led to a conference with the President by representatives of the carriers so enjoined, who agreed to withdraw the proposed increases effective June 1, 1910, and to make no general increase in rates except with the approval of the Commission. The President's message of June 7, 1910, referred to these facts and recommended that the suspending power under the bill be made effective upon its passage. This was done, and thereafter the increased rates, both eastern and western, were submitted to the Commission and postponed, and the injunction suit was dismissed.

The increased rates were not approved by the Commission for reasons stated in its reports, 20 I. C. C., 243; 20 I. C. C., 307

In May, 1913, most of the rail carriers in official classification territory filed with the Commission a petition praying for a reopening of the former proceeding decided in *Advance in Rates—Eastern Case*, 20 I. C. C., 243.

Such reopening was deemed inexpedient, but the Commission, on June 21, 1913, ordered an investigation on its own motion into the following matters:

1. Do the present rates of transportation yield to common carriers by railroad operating in official classification territory adequate revenues?
2. If not, what general course may carriers pursue to meet the situation?

This investigation is docketed as No. 5860.

On October 15, 1913, most of the rail carriers which had joined in the petition filed tariffs embodying the so-called "5 per cent advance," the increases ranging, however, from less than 3 per cent on some traffic to 50 per cent on other, and omitting some items altogether, as, for example, rates between certain points on sugar, iron and zinc ore, and live stock.

No increase was proposed as to anthracite coal moving to Atlantic tidewater or on most of the interstate traffic in New England.

Increased rates on the same basis on intrastate traffic were proposed, but voluntarily suspended by the carriers.

The interstate increased rates were suspended and their propriety investigated by order of November 4, 1913, in *Investigation and Suspension Docket No. 333*, which was thereafter conducted in connection with No. 5860.

Like tariffs were from time to time filed and suspended by separate orders, the last having been entered May 7, 1914.

Meantime hearings commenced on November 24, 1913, and were continued until May 1, 1914, with a further hearing on May 29, 1914, as to the relations between the Baltimore & Ohio and the Cincinnati, Hamilton & Dayton.

Argument was had during the week ending May 2, 1914, and on July 29, 1914, the Commission handed down its report, 31 I. C. C., 351.

The substance of this report in the two proceedings is stated in the syllabus, as follows:

Upon the record, found that the net operating income of the carriers in Official Classification territory, considered as a whole, is smaller than is demanded in the public interest; but that no showing has been made warranting a general increase in trunk-line rates, in rail-and-lake rates, or in the rates on traffic moving between the different rate territories in Official Classification territory.

An increase by 5 per cent in the intraterritorial class and commodity rates in Central Freight Association territory approved, subject to the qualifications described in the report. The need of a general readjustment of rates in that territory discussed.

Suggestions made for consideration by all the carriers in Official Classification territory as to the methods by which they may increase their net income other than by a general rate increase. Special attention is called to the existence of many individual rates and charges apparently unremunerative.

Shortly thereafter war was declared in Europe, and on September 15, 1914, the carriers filed a petition for rehearing, which was granted by order of September 19, 1914, limiting that rehearing to—

presentation of facts disclosed and occurrences originating subsequently to the date upon which the records previously made in these cases were closed.

This rehearing was had before the Commission on October 19, 20, 21, 22, and 23, 1914, followed by argument October 29 and 30, 1914, and the matters so presented were taken under advisement.

CLASSIFICATION OF FREIGHT.

This subject was referred to in the Commission's twenty-seventh annual report, under the caption "Western classification." The view was there indicated, as it has been indicated elsewhere, that classification of freight is a question of great public interest, and that meetings of classification committees should be open to the public to a much greater extent than had theretofore been the practice.

The respective classification committees invited the Commission to have its representative sit in any or all of the committee meetings. The Commission has employed a man experienced in classification work, who, for want of a better title, has been designated "Classification agent." He attends many of the meetings of the classification committees, including the carriers' committee on uniform classification, and assists the Commission in cases and questions involving classification matters. In this way the Commission is able to keep in close touch with and well informed as to progress in the direction of uniformity in classification matters.

There has been a substantial change in the manner of holding and conducting meetings of the several classification committees. The official classification committee until recently held but two meetings per annum; it now holds four meetings. It is therefore possible

for a shipper to have a matter presented by him considered by the committee with not more than half the delay which previously occurred. The southern classification committee now holds three meetings per annum. The western classification committee is constructed and is operating along entirely new plans, somewhat recently adopted, which so far have proven to be eminently satisfactory. Instead of having a large committee, meeting occasionally, the western classification committee is now composed of but three members, who have no other duties and who sit in constant session. The members of the committee are not employed by or identified with any individual road. Under this plan matters presented are subject to no delay other than that necessary to a thorough investigation.

It seems to be generally conceded that any effort to establish uniformity in classification ratings involves changes in the ratings and rates upon practically all commodities moving under class ratings. It would be revolutionary to establish it at once, and it can be brought about only in a very gradual way. Uniformity in ratings is recognized as of substantially less importance than uniformity in other features of classification. The carriers have had a committee working constantly for several years in an effort to bring about uniformity in rules and regulations governing classification of freight, uniform description of articles or commodities subject to class rates, uniform packing or container requirements, and uniform minimum carload weights. While the work of this committee has seemed disappointingly slow, what has been done seems to have been done thoroughly, and the greater part of the recommendations made by this committee have from time to time been incorporated in the several classification publications. There has, therefore, been some steady, although slow, progress toward uniformity in the regards mentioned. Uniformity in these matters will remove by far the greater part of the causes for complaint which have so long existed. It may be said that from 50 to 65 per cent of those features of the several classification publications are now in accord with the recommendations of the uniform classification committee, and that from 80 to 90 per cent of the recommendations of the uniform classification committee have been adopted by the several classification committees.

The Commission has recommended in the past that it be given authority to require uniformity in classification matters. Bills proposing to confer that authority were considered in the last Congress. If the Commission had that specific authority, it could be exercised in such a way as to hasten the adoption of uniformity in those features as to which uniformity is most desired and as to which uniformity is conceded to be desirable, and, at the same time, in such a way as would not injure the interests of shippers or carriers.

EXPRESS COMPANIES.

On February 1, 1914, the classification, regulations, and practices, and all of the class rates prescribed by the Commission for the express companies, became effective. The Commission authorized temporary continuance of commodity tariffs in their then existing form, provided they were so amended as to provide that if the commodity rate was in any instance higher than the second-class rate prescribed by the Commission, the second-class rate would apply. The class rates are on a block system. There was wide difference of opinion among the express people as to the practicability or desirability of stating commodity rates in the same way, due to the fact that in many instances the commodity rates apply only from known points of production. Proposed commodity tariffs are now before the Commission for consideration.

The classification, rules, regulations, and rates prescribed by the Commission have been adopted in some 40 states. The cordial disposition and effort on part of the express companies and the state commissions to harmonize the state and interstate adjustments has been most gratifying. In some instances minor modifications of the Commission's original order seemed necessary or appropriate to this end, and such modifications have been made.

The new system of rates, as also the rules, regulations, and practices prescribed, seem to be free from objections and complications and to be generally satisfactory to the patrons of the express companies. The difficulty about quoting the correct rate no longer exists. The rates now apply via the most direct routes, regardless of which express company or companies perform the transportation. The mistakes which formerly resulted in sometimes collecting charges from the consignor and again from the consignee are effectively guarded against. The collection and delivery limits are clearly defined and published in a directory so that any person can ascertain whether or not a particular point is within or without those limits. The express companies have reorganized their claim departments and marked improvement in the matter of adjusting claims for losses has been shown.

The express companies have consistently contended that the rates are too low, but they have evinced a willingness and determination to give them a fair trial. They have co-operated cordially and helpfully in all other changes prescribed and in an effort to make their service efficient and satisfactory to their patrons.

CASES DISPOSED OF IN THE SUPREME COURT.

Since our last annual report important cases involving the validity of orders of the Commission have been disposed of in the Supreme Court of the United States. Decisions sustaining the

Commission were rendered in the *Shreveport, Intermountain, Pipe Line, Pacific Coast Switching, and Pre-cooling cases*. Decisions against the Commission were rendered in the *Tap Line, Uncle Sam Pipe Line, and Florida East Coast cases*. The *Willamette Valley and Hillsdale Car Distribution cases* were dismissed upon motion of the carriers, which had appealed from decrees of the Commerce Court sustaining the Commission. In the *Tap Line cases* one of the important questions was decided in favor of the Commission, namely, that the Commission may, in order to remove a discrimination, control the amount of divisions or allowances.

Cases of general public interest are referred to below.

SHREVEPORT CASES.

Houston, East & West Texas Ry. Co. v. United States, and Texas & Pacific Ry. Co. v. United States, 234 U. S., 342.

These cases involved an order of the Commission requiring the carriers to remove a discrimination against Shreveport, La., which resulted from the action of the carriers in charging higher rates, according to distance, on interstate traffic from Shreveport than on intrastate traffic from Dallas and Houston, Tex., to destination points in Texas.

The proceeding was brought before the Commission by the railroad commission of Louisiana under direction of the legislature of that state, and had two objects: (1) To secure an adjustment of rates that would be just and reasonable from Shreveport into Texas; and (2) to end, if possible, the alleged unjust discrimination practiced by these interstate railroads in favor of Texas state traffic and against similar traffic between Louisiana and Texas.

With regard to the alleged discrimination, the Commission in its report, 23 I. C. C., 31, said:

The railroads deny that the rates out of Shreveport are unreasonable, but place their defense mainly upon the proposition that they are compelled by the railroad commission of Texas to effect the discrimination here involved. * * * There appears to be little question as to the policy of the Texas commission. It is frankly one of protection to its own industries and communities. * * * Passing, then, to the question of discrimination, has this Commission the power to say that whatever rates an interstate carrier makes between points in Texas shall not be exceeded for the same distance under like conditions between Shreveport and Texas points? In other words, may a carrier engaged in interstate commerce discriminate against a city beyond the border of a state by imposing upon that city's traffic rates which deny its shippers access upon equal terms to the communities of an adjoining state?

This is an appeal to the powers lodged in this Commission under the third section of the act—that provision which is aimed at the destruction of undue preference and advantage. We thus meet directly the most delicate problem arising under our dual system of government. Congress asserts its exclusive dominion over interstate commerce; the state asserts its absolute control

over state commerce. The state for its own purposes establishes rates designed to protect its own communities and promote the development of its own industries. These rates are adopted by the interstate carriers upon state traffic, but are not adopted upon interstate traffic. Thus arises a discrimination in favor of communities within the state, and interstate commerce suffers a corresponding disadvantage. May this Commission end such discrimination by saying to the interstate carrier, "You may not distinguish between state and interstate traffic transported under similar conditions. If the rates prescribed for you by state authority are not compensatory upon this specific traffic as to which discrimination is found, the burden rests upon you, irrespective of your obligation to the state, to so adjust your rates that justice will be done between communities, regardless of the invisible state line which divides them"? To which we are compelled to answer that the effective exercise of its power regarding interstate commerce makes necessary the assertion of the supreme authority of the National Government, and that the Congress has appropriately exercised this power in the provisions of the act to regulate commerce touching discrimination.

The Supreme Court described the situation substantially as follows:

Shreveport, La., is about 40 miles from the Texas state line and 231 miles from Houston, Tex., on the line of the Houston, East & West Texas and Houston & Shreveport companies (which are affiliated in interest); it is 189 miles from Dallas, Tex., on the line of the Texas & Pacific. Shreveport competes with both cities for the trade of the intervening territory. The rates on these lines from Dallas and Houston, respectively, eastward to intermediate points in Texas were much less, according to distance, than from Shreveport westward to the same points. It is undisputed that the difference was substantial, and injuriously affected the commerce of Shreveport. It appeared, for example, that a rate of 60 cents carried first-class traffic a distance of 160 miles to the eastward from Dallas, while the same rate would carry the same class of traffic only 55 miles into Texas from Shreveport. The first-class rate from Houston to Lufkin, Tex., 118.2 miles, was 50 cents per 100 pounds, while the rate from Shreveport to the same point, 112.5 miles, was 69 cents. The rate on wagons from Dallas to Marshall, Tex., 147.7 miles, was 36.8 cents, and from Shreveport to Marshall, 42 miles, 56 cents. The rate on furniture from Dallas to Longview, Tex., 124 miles, was 24.8 cents, and that from Shreveport to Longview, 65.7 miles, was 35 cents. These instances of differences in rates are merely illustrative; they serve to indicate the character of the rate adjustment.

The Commission found that interstate class rates from Shreveport to such Texas points were unreasonably high, and it established maximum class rates to be substituted therefor. These rates were substantially the same as the class rates fixed by the railroad commission of Texas, and charged by the carriers, for transportation for similar distances in the state of Texas. The Commission also found that the carriers maintained higher commodity rates, according to distance, from Shreveport to the Texas points than were in force from cities in Texas to such Texas points, and that thereby an unlawful and undue preference was given to the Texas cities and a discrimination that was undue and unlawful was effected against Shreveport.

In order to correct this discrimination the carriers were directed to desist from charging higher rates for the transportation of any commodity from Shreveport toward Dallas and Houston, respectively, and intermediate points than were contemporaneously charged for the carriage of such commodity from Dallas and Houston toward Shreveport for equal distances.

In their petition in the Commerce Court to annul the Commission's order, the carriers assailed the order in its entirety, but subsequently they withdrew their opposition to the fixing of maximum class rates and these rates were put in force. The attack was continued upon that portion of the order which prohibited higher rates for carrying articles from Shreveport into Texas than those charged for eastbound traffic from Dallas and Houston, respectively, for equal distances.

The point of objection was that as the discrimination found by the Commission to be unjust arose out of the relation of intrastate rates, maintained under state authority, to interstate rates, upheld by it as reasonable, its correction was beyond the power of the Commission. The point was urged in a twofold aspect: (1) That Congress is impotent to control the intrastate charges of an interstate carrier even to the extent necessary to prevent unjust discrimination against interstate traffic; and (2) that, if it be assumed that Congress has this power, still it has not been exercised or delegated to the Commission, and hence the action of the Commission exceeded the limits of the authority which had been conferred upon it.

The Commerce Court sustained the Commission's order and dismissed the petitions, 205 Fed., 380. The carriers appealed.

In affirming the decree of the Commerce Court and sustaining the Commission's order the Supreme Court held that—

Wherever the interstate and intrastate transactions of carriers are so related that the government of the one involves the control of the other it is Congress, and not the State, that is entitled to prescribe the final and dominant rule, for otherwise Congress would be denied the exercise of its constitutional authority, and the State, and not the Nation, would be supreme in the national field.

The power to deal with the relation between intrastate and interstate rates, the court held, lies exclusively with Congress, and in the exercise of that power Congress can remove, directly or through the aid of a subordinate body, a discrimination arising from the relation of intrastate to interstate rates.

After quoting section 3 of the act making unlawful any undue or unreasonable preference or advantage or any undue or unreasonable prejudice or disadvantage, and the proviso of section 1, to the effect that the act to regulate commerce shall not apply to commerce wholly within one state, the court held that the Commission was

authorized and empowered to deal with the situation before it in these cases.

Mr. Justice Hughes, speaking for the court, concluded the decision with these words:

The further objection is made that the prohibition of section 3 is directed against unjust discrimination or undue preference only when it arises from the voluntary act of the carrier and does not relate to acts which are the result of conditions wholly beyond its control. *East Tennessee, etc., Rwy. Co. v. Interstate Commerce Commission*, 181 U. S., 1, 18. The reference is not to any inherent lack of control arising out of traffic conditions, but to the requirements of the local authorities which are assumed to be binding upon the carriers. The contention is thus merely a repetition in another form of the argument that the Commission exceeded its power; for it would not be contended that local rates could nullify the lawful exercise of Federal authority. In the view that the Commission was entitled to make the order, there is no longer compulsion upon the carriers by virtue of any inconsistent local requirement. We are not unmindful of the gravity of the question that is presented when state and Federal views conflict. But it was recognized at the beginning that the Nation could not prosper if interstate and foreign trade were governed by many masters, and where the interests of the freedom of interstate commerce are involved the judgment of Congress and of the agencies it lawfully establishes must control.

INTERMOUNTAIN CASES.

United States et al. v. Atchison, Topeka & Santa Fe Ry. Co. et al., 234 U. S., 476, and *United States et al. v. Union Pacific R. R. Co. et al.*, 234 U. S., 495.

The first of these cases involved an order of the Commission granting in part and refusing in part relief from the long-and-short haul rule of section 4 on traffic shipped from the east to points between the Missouri River and the Pacific coast. The second case involved an order of the Commission granting in part and refusing in part relief from section 4 on traffic shipped from the east to Spokane and Walla Walla, Wash. In both cases the Commission established a proportionate relation to be maintained between the lower rate for the longer haul and the higher rate for the shorter haul upon the basis of certain percentages which were fixed with reference to defined rate zones.

The Commerce Court enjoined the enforcement of the orders, 191 Fed., 856. The Commission appealed. The Supreme Court reversed the decrees of the Commerce Court and sustained the validity of the Commission's orders.

The Supreme Court considered the cases from a fourfold viewpoint, namely, (1) the meaning of section 4 as amended; (2) its constitutionality; (3) the jurisdiction of the court; and (4) the validity of the orders in the light of the statute as interpreted.

On the first point Mr. Chief Justice White, speaking for the court, said:

It is certain that the fundamental change which it (the amendment of 1910) makes is the omission of the substantially similar circumstances and conditions clause, thereby leaving the long-and-short-haul clause in a sense unqualified except in so far as the section gives the right to the carrier to apply to the Commission for authority "to charge less for longer than for shorter distances for the transportation of persons or property," and gives the Commission authority from time to time "to prescribe the extent to which such designated common carrier may be relieved from the operation of this section." From the failure to insert any word in the amendment tending to exclude the operation of competition as adequate under proper circumstances to justify the awarding of relief from the long-and-short-haul clause, and there being nothing which minimizes or changes the application of the preference and discrimination clauses of the second and third sections, it follows that, in substance, the amendment intrinsically states no new rule or principle, but simply shifts the power conferred by the section as it originally stood; that is, it takes from the carriers the deposit of public power previously lodged in them and vests it in the Commission as a primary instead of reviewing function. In other words, the elements of judgment or, so to speak, the system of law by which judgment is to be controlled remains unchanged, but a different tribunal is created for the enforcement of the existing law. This being true, as we think it plainly is, the situation under the amendment is this: Power in the carrier primarily to meet competitive conditions in any point of view by charging a lesser rate for a longer than for a shorter haul has ceased to exist, because to do so in the absence of some authority would not only be inimical to the provisions of the fourth section, but would be in conflict with the preference and discrimination clauses of the second and third sections. But while the public power, so to speak, previously lodged in the carrier is thus withdrawn and reposed in the Commission, the right of carriers to seek and obtain under authorized circumstances the sanction of the Commission to charge a lower rate for a longer than for a shorter haul because of competition or for other adequate reasons is expressly preserved; and if not, is, in any event, by necessary implication granted. And as a correlative the authority of the Commission to grant on request the right sought is made by the statute to depend upon the facts established and the judgment of that body in the exercise of a sound legal discretion as to whether the request should be granted compatibly with a due consideration of the private and public interests concerned and in view of the preference and discrimination clauses of the second and third sections.

The constitutional objection was that the fourth section constitutes a delegation to the Commission of legislative power which Congress was incompetent to make. The court held this contention to be without merit.

The principal objection to the jurisdiction of the court rested upon the assumption that the order of the Commission refusing to grant the request of the carrier made under section 4 was purely negative, and hence not subject to judicial review. The court held that "while the refusal to grant it may be in one sense negative, in another and broader view it is affirmative, since it refuses that which the statute in affirmative terms declares shall be granted if only the conditions which the statute provides are found to exist."

As to the validity of the orders under the fourth section as amended and as thus construed, the court states the carriers' objection and answers it in this language:

The main insistence is that there was no power after recognizing the existence of competition and the right to charge a lesser rate to the competitive point than to intermediate points to do more than fix a reasonable rate to the intermediate points; that is to say, that under the power transferred to it by the section as amended, the Commission was limited to ascertaining the existence of competition and to authorizing the carrier to meet it without any authority to do more than exercise its general powers concerning the reasonableness of rates at all points. But this proposition is directly in conflict with the statute as we have construed it, and with the plain purpose and intent manifested by its enactment. * * * As the prime object of the transfer was to vest the Commission within the scope of the discretion imposed and subject in the nature of things to the limitations arising from the character of the duty exacted and flowing from the other provisions of the act, with authority to consider competitive conditions and their relation to persons and places, necessarily there went with the power the right to do that by which alone it could be exerted, and therefore a consideration of the one and the other and the establishment of the basis by percentages was within the power granted.

PIPE LINE CASES.

United States et al. v. Prairie Oil & Gas Co., Uncle Sam Oil Co., Benson and others doing business under the name of the Tidewater Pipe Co., Ohio Oil Co., Standard Oil Co., and Standard Oil Co. of Louisiana, 234 U. S., 548.

These cases involved an order of the Commission requiring the operators of pipe lines to file with the Commission schedules of their rates and charges for the interstate transportation of oil by means of such pipe lines.

The Commerce Court held that the pipe lines were private, and not common, carriers; that the act to regulate commerce applies to every pipe line that crosses a state boundary; and that, thus construed, the act is unconstitutional, in violation of the fifth amendment to the Constitution of the United States, as applied to these pipe lines. The court thereupon issued a preliminary injunction against the enforcement of the Commission's order, 204 Fed., 798. The Commission appealed from this decree.

The Supreme Court reversed the Commerce Court and sustained the Commission's order as valid as to all the pipe lines involved except the Uncle Sam Oil Co. As to the latter, the decree of the Commerce Court was affirmed.

After describing the methods of the Standard Oil Co., Mr. Justice Holmes, who wrote the majority opinion, said with reference to all except the Uncle Sam Oil Co.:

Availing itself of its monopoly of the means of transportation, the Standard Oil Co. refused through its subordinates to carry any oil unless the same was

sold to it or to them and through them to it on terms more or less dictated by itself. In this way it made itself master of the fields without the necessity of owning them, and carried across half the continent a great subject of international commerce coming from many owners, but, by the duress of which the Standard Oil Co. was master, carrying it all as its own. The main question is whether the act does and constitutionally can apply to the several constituents that then (prior to the amendment of 1906) had been united into a single line.

Taking up first the construction of the statute, we think it plain that it was intended to reach the combination of pipe lines that we have described. The provisions of the act are to apply to any person engaged in the transportation of oil by means of pipe lines. The words "who shall be considered and held to be common carriers within the meaning and purpose of this act" obviously are not intended to cut down the generality of the previous declaration to the meaning that only those shall be held common carriers within the act who were common carriers in a technical sense, but an injunction that those in control of pipe lines and engaged in the transportation of oil shall be dealt with as such. If the Standard Oil Co. and its cooperating companies were not so engaged, no one was. It not only would be a sacrifice of fact to form, but would empty the act if the carriage to the seaboard of nearly all the oil east of California were held not to be transportation within its meaning, because by the exercise of their power the carriers imposed as a condition to the carriage a sale to themselves. As applied to them, while the amendment does not compel them to continue in operation it does require them not to continue, except as common carriers. That is the plain meaning, as has been held with regard to other statutes similarly framed. *Atlantic Coast Line Railroad Co. v. Riverside Mills* (219 U. S., 186, 195, 203). Its evident purpose was to bring within its scope pipe lines that, although not technically common carriers, yet were carrying all oil offered, if only the offerers would sell at their price.

As to the constitutionality of the statute as thus construed, the court said:

So far as the statute contemplates future pipe lines and prescribes the conditions upon which they may be established there can be no doubt that it is valid. So the objection is narrowed to the fact that it applies to lines already engaged in transportation. But, as we already have intimated, those lines that we are considering are common carriers now in everything but form. They carry everybody's oil to a market, although they compel outsiders to sell it before taking it into their pipes. The answer to their objection is not that they may give up the business, but that, as applied to them, the statute practically means no more than they must give up requiring a sale to themselves before carrying the oil that they now receive. The whole case is that the appellees if they carry must do it in a way that they do not like.

As stated above, the Commission's order was held invalid in so far as it related to the Uncle Sam Oil Co. On this phase of the case, the court said:

There remains to be considered only the Uncle Sam Oil Co. This company has a refinery in Kansas and oil wells in Oklahoma, with a pipe line connecting the two which it has used for the sole purpose of conducting oil from its own wells to its own refinery. It would be a perversion of language, considering the sense in which it is used in the statute, to say that a man was engaged in the transportation of water whenever he pumped a pail of water from his well to his house. So as to oil. When, as in this case, a company is simply

drawing oil from its own wells across a state line to its own refinery for its own use, and that is all, we do not regard it as falling within the description of the act, the transportation being merely an incident to use at the end.

Mr. Chief Justice White, while concurring in the conclusions of the court, stated that, as to the Uncle Sam Oil Co., it was his opinion that the business carried on by it was transportation in interstate commerce within the statute, but that he thought the company is not embraced by the statute, because it would be impossible to make the statute applicable to it without violating the due process clause of the fifth amendment, since to apply it would necessarily amount to a taking of the property of the company without compensation. He said:

It is shown beyond question that the company buys no oil and, by the methods which have been mentioned, simply carries its own product to its own refinery; in other words, it is engaged in a purely private business. Under these conditions, in my opinion, there is no power under the Constitution without the exercise of the right of eminent domain to convert without its consent the private business of the company into a public one.

Mr. Justice McKenna wrote a dissenting opinion, concurring in the judgment of the court as to the Uncle Sam Oil Co. and dissenting from the judgment as to the other companies, on the ground that the statute takes the property of the pipe lines without due process of law.

PACIFIC COAST SWITCHING CASES.

Interstate Commerce Commission v. Atchison, Topeka & Santa Fe Ry. Co. et al., 234 U. S., 294, and *Interstate Commerce Commission v. Southern Pacific Co.*, 234 U. S., 315.

These cases involved orders of the Commission requiring the carriers to cease and desist from exacting a charge of \$2.50 per car in addition to the through rate on traffic received or delivered on side-tracks in Los Angeles and San Francisco, Cal., where private industries are located.

The Commerce Court entered a decree suspending the enforcement of the orders until further action of that court, 188 Fed., 229, 241. The Commission appealed.

The Supreme Court reversed the Commerce Court and sustained the orders as valid. The court held that the delivery and receipt of goods on an industrial spur track within the switching limits of a city is not necessarily an additional service for which a carrier may make an additional charge, but that it is a question of fact for the Commission to determine whether such delivery and receipt is an additional service or whether it is merely a substituted service which is substantially a like service to that included in the line-haul rate. And the finding of the Commission on this point is not subject to judicial review.

PRE-COOLING CASE.

Atchison, Topeka & Santa Fe Ry. Co. v. United States, 232 U. S., 199.

This case involved two orders of the Commission, one reducing the rate on pre-cooled and pre-iced fruit from points in southern California to eastern destinations and the other requiring the carriers to maintain tariffs permitting pre-icing or pre-cooling of their shipments by shippers. "Pre-icing" or "pre-cooling" by shippers signifies the service performed by shippers in pre-cooling the fruit and placing in the bunkers of the cars the ice necessary for the preservation of the fruit during transportation.

The carriers sought to annul both orders, contending that the rate fixed was confiscatory and that shippers had no right to pre-ice. The Commerce Court sustained the Commission's orders and dismissed the petitions, 204 Fed., 647.

In affirming the decree of the Commerce Court and sustaining the validity of the orders the Supreme Court held on the question of confiscation that a rate fixed by the Commission which apparently excluded any compensation for hauling ice for refrigeration is not confiscatory when it appears, as in this case, that the rate for the fruit itself practically includes the rate for the ice. On the pre-icing feature the court held that a tariff withdrawing the privilege of pre-icing affects a rule and practice within the meaning of section 15 of the act empowering the Commission to determine whether any new practice is unreasonable; that it depends upon the facts and circumstances of each case whether icing is a part of the preparation for a shipment to be done by shippers or is a part of transportation to be furnished by the carrier; that neither the shipper nor carrier can insist upon a wasteful or expensive service for which the consumer must ultimately pay; and that, under the circumstances of this case, the shippers have the right to pre-ice their shipments.

TAP LINE CASES.

United States et al. v. Louisiana & Pacific Ry. Co. et al., Woodworth & Louisiana Central Ry. Co., Mansfield Railway & Transportation Co. et al., Victoria, Fisher & Western R. R. Co. et al., and Butler County R. R. Co., 234 U. S., 1, 29.

These cases involved certain divisions of through rates demanded by tap lines and held by the Commission to be unlawful.

After an extensive investigation of the tap lines in the lumber regions, particularly in Arkansas, Missouri, Louisiana, and Texas, the Commission held that the tap lines involved were, with respect to the proprietary lumber industries, merely plant facilities and not common carriers, although the tap lines had assumed the form of

common carriers; and ordered the trunk lines to cease and desist from paying divisions or allowances to the tap lines on traffic of the proprietary industries. On nonproprietary traffic, the Commission held that the trunk lines could lawfully pay such divisions and allowances to the tap lines.

The position of the Commission was that the proprietors of the tap lines in controversy were receiving rebates from the trunk lines prior to the passage of the Hepburn Act; and that after the Hepburn Act went into effect the proprietors incorporated the tap lines as common carriers, and then received in the shape of divisions what before they had gotten as rebates. This assumption by the tap lines of the character of common carriers was held by the Commission to be merely a device.

The Commerce Court annulled the Commission's order, 209 Fed., 244. The Commission appealed.

In affirming the decree of the Commerce Court and holding the Commission's order to be invalid, the Supreme Court decided three propositions: (1) That the Commission can not hold that the assumption of the form or character of common carrier by a tap line is a mere device to shield rebates when by the public policy of the State and the National Governments, as evidenced by legislation on the subject, tap lines are recognized to be common carriers; (2) that there can be no discrimination between proprietary and nonproprietary traffic—that is to say, if a tap line is entitled to a division or an allowance on traffic carried for strangers, it is also entitled to a similar division or allowance on traffic carried for the industry of which the tap line is an adjunct; and (3) that the Commission can fix the divisions of through rates to prevent discrimination and rebating without establishing through routes and joint rates and without a disagreement on the question of divisions among the carriers. On this last point the court said:

Because we reach the conclusion that the tap lines involved in these appeals are common carriers, as well of proprietary as nonproprietary traffic, and as such entitled to participate in joint rates with other common carriers, that determination falls far short of deciding, indeed does not at all decide, that the divisions of such joint rates may be made at the will of the carriers involved and without any power of the Commission to control. That body has the authority and it is its duty to reach all unlawful discriminatory practices resulting in favoritism and unfair advantages to particular shippers or carriers. It is not only within its power, but the law makes it the duty of the Commission to make orders which shall nullify such practices resulting in rebating or preferences, whatever form they may take and in whatsoever guise they may appear. If the divisions of joint rates are such as to amount to rebates or discriminations in favor of the owners of tap lines because of their disproportionate amount in view of the service rendered, it is within the province of the Commission to reduce the amount so that a tap line shall receive just compensation only for what it actually does.

FLORIDA EAST COAST CASE.

Florida East Coast Ry. Co. v. United States, 234 U. S., 167.

This case involved an order of the Commission reducing certain rates on citrus fruits and vegetables from gathering points in Florida to the basing point of Jacksonville when those rates formed parts of through rates to points beyond Jacksonville in other states.

The carrier attacked the order in the Commerce Court on two grounds, namely: (1) That there was no substantial evidence before the Commission to support a finding that the existing rates were unreasonable, and (2) that the rates fixed by the Commission were confiscatory. That court held that there was substantial, though conflicting, evidence to support the order and that there was no basis for a charge of confiscation, and dismissed the petition. 200 Fed., 797. The carrier appealed.

The Supreme Court reversed the decree of the Commerce Court and remanded the cause to the proper district court with directions to restrain the enforcement of the order on the sole ground that there was no substantial evidence before the Commission to support the Commission's finding that the existing rates were unreasonable.

WILLAMETTE VALLEY CASE.

Southern Pacific Co. et al. v. United States et al., 232 U. S., 736.

This case involved an order of the Commission reducing rates on rough green fir lumber and lath from points in the Willamette valley in Oregon to San Francisco and other points in California.

The Commission's first order herein is reported in 14 I. C. C., 61. This order was attacked by the carriers in the Circuit Court for the Northern District of California, which court certified the case to the Supreme Court. Holding that the case was not properly certified, the Supreme Court remanded the case to the circuit court, 215 U. S., 226, whereupon the circuit court entered a decree sustaining the Commission's order, 177 Fed., 963. From such decree the carriers appealed to the Supreme Court, which held that the Commission's order was invalid on the ground that the action of the Commission in reducing the rate was not an attempt on its part to fix a reasonable rate, but was rather in the nature of a decree enforcing an equitable estoppel between the parties. The Supreme Court did not find that the rate fixed was too low, but simply held that the Commission had no power to reduce a rate on the theory that a carrier is estopped to charge a higher rate after maintaining a lower rate for many years and leading shippers to believe that the lower rate would be continued, 219 U. S., 433.

Another hearing was had in the case and a large amount of testimony taken, but practically no new facts developed before the Com-

mission, which, expressly excluding from consideration any matter of estoppel, again reduced the rates, 21 I. C. C., 359. Thereupon the carriers attacked the new order in the Commerce Court, contending that, in disregard of the Supreme Court's decision, the Commission allowed the same views to prevail. The Commerce Court held that in making its second order the Commission had not attempted to enforce any equitable estoppel and sustained the order as valid, 197 Fed., 167. The carriers again appealed to the Supreme Court.

On March 17, 1914, the appeal of the carriers was dismissed in the Supreme Court upon motion of the carriers.

HILLSDALE CAR DISTRIBUTION CASE.

Pennsylvania R. R. Co. v. Interstate Commerce Commission et al., not yet reported.

This case involved an order of the Commission requiring the carrier to cease and desist from a discrimination which results from certain rules of the Pennsylvania Railroad pertaining to the distribution of coal cars.

The carrier attacked the order in the Commerce Court on the ground that it was invalid because it related to cars for intrastate as well as interstate shipments. That court held that "we see no reason to doubt the authority of the Commission to make these orders, even though they are intended to have the application and effect which petitioner appears to apprehend," 193 Fed., 81. The carrier appealed to the Supreme Court.

On October 13, 1914, the carrier's appeal in the Supreme Court was dismissed upon motion of the carrier.

CASES DECIDED IN LOWER COURTS, CASES INSTITUTED, AND CASES PENDING.

Since the date of our last report decisions involving orders or requirements of the Commission have been rendered in courts other than the United States Supreme Court in 11 cases, 7 in favor of, and 4 against, the Commission.

Sixteen new cases involving orders or requirements of the Commission have been instituted, 14 in Federal district courts and 2 in courts of the District of Columbia. In two other cases, the *Meeker Cases*, the Commission intervened in the Supreme Court of the United States.

Twenty-three cases involving orders or requirements of the Commission are now pending; in the United States Supreme Court, 8; in Federal district courts, 13; and in the Court of Appeals of the District of Columbia, 2.

Lists embracing all the foregoing are given in Appendix B.

DIVISION OF CARRIERS' ACCOUNTS.

At the date of the last report a general revision of the accounting classifications for steam railways, electric railways, and express companies was in progress. This work has been completed and the revised classifications were made effective July 1, 1914.

This general revision has been in the direction of development rather than change in principle. Additional accounts have been provided, instructions have been amplified, item lists extended, and the terminology simplified and made more descriptive. The grouping of accounts has also been so changed as better to show their relations. In the classifications of operating expenses for steam railways, electric railways, and express companies accounts have been provided for depreciation upon several classes of fixed property as well as equipment. The carriers are required to report to the Commission the bases used by them in calculating depreciation. The revenues and expenses of certain auxiliary, or "outside" operations of steam railways, heretofore shown separately in income account, are now combined with those of the main operations to which they are incidental, although they are still chargeable to separate primary accounts. The increasing use of electricity as an auxiliary in the operation of steam railways has been recognized by the addition of several new accounts.

A new feature of some importance is a change in the basis of division between property accounts and operating expense accounts of steam railways in accounting for expenditures for the replacement of property retired from service. Heretofore, except in the case of equipment, the amount chargeable to operating expenses has been the "cost of replacing in kind." Through the operation of this rule changes in prices of labor and material have been absorbed in operating expenses and have not affected the property accounts. Under the current rules the cost of retired property is deducted from property accounts, and the cost of the new is added, the effect being that property accounts reflect the actual cost of the new property. By this change the treatment of the larger units of fixed property is brought into harmony with that of equipment. Owing to practical difficulties, however, any increase in the cost of replacing without betterment the smaller units of property, such as ties and rails, is still reflected in operating expenses and does not affect property accounts.

The system of accounts for electric railways has been completed by the addition of classifications of income, profit and loss, and balance-sheet accounts, and that of express companies by the addition of income and profit and loss accounts. A system of accounts for small telephone companies has been prepared and will become effective January 1, 1915. The task of revising and completing the

system of accounts for pipe-line companies has also been entered upon.

The bulletin of accounting decisions under the former classifications for steam railways will be revised to conform to the new classifications and will be issued with additional cases. A similar revision of decisions under the electric railway classifications is in preparation.

During the preparation of both revised and new classifications the assistance of the carriers was secured, as in the past, through the issuance of the classifications in tentative form for criticism, and through conferences between representatives of the division of carriers' accounts and of the carriers. The Commission again acknowledges the helpful co-operation of the carriers in this work.

While much progress has been made during recent years in the practice of accounting by carriers, it is necessary to bear in mind that much remains to be done. A correct statement of assets and liabilities is not reached through recording merely the receipts and payments of money. So far as possible, account should be taken of the changes in values as they progress. Depreciation is not yet receiving adequate treatment by carriers. Repair expenses, which should be current, do not always appear in the period in which they accrue.

The board of accounting examiners was established under authority of the Hepburn amendment, for the principal purpose of assisting the Commission in enforcing the observance of its accounting regulations through the inspection of carriers' accounts. For the past three years, however, there has been an increasing demand on the division's accountants to assist in the investigation of formal cases before the Commission. During the past year the field force of the division has been largely employed in such investigations, and as a result the field examination of carriers' accounting practices has been curtailed.

An important administrative change in this division has been made since our last report. When organized, and for two years thereafter, the entire force of the division had its headquarters at Washington. On July 1, 1910, a branch office was opened at Chicago. During the past year additional branch offices have been established at New York, Philadelphia, Pittsburgh, St. Paul, St. Louis, and San Francisco. Another will be opened at New Orleans. A force of resident examiners is attached to each branch office. An advantage expected to accrue from this change is increased efficiency through better acquaintance with local conditions at important railroad centers and in their vicinity. It is also expected that a substantial saving in expenses will be effected.

CLAIMS AGAINST CARRIERS.

In our twenty-fifth and twenty-seventh annual reports reference was made to some of the difficulties surrounding the investigation and adjustment of freight claims, and more particularly to the need of improvement in the forms used and in the methods and rules of procedure which govern the investigation and adjustment of claims. The Commission has continued, through joint conferences with carriers represented by the Freight Claim Association, and shippers represented by the National Industrial Traffic League, to help bring about such improvement. One of the results of these joint conferences was the approval by both carriers and shippers of standard forms for use in presenting claims against carriers. The Commission also has approved the forms and has recommended their general use and adoption. Already their use has become quite general. These forms should do much to obviate the differences of opinion which have existed relative to the evidence necessary to support claims when presented. To these differences of opinion have been attributable a large part of the delays in settling claims, and much of the friction and bad feeling so often existing between carriers and shippers.

Another result was an inquiry as to the time necessary to adjust claims. This inquiry was pursued through the medium of special reports required of steam carriers having annual revenues exceeding \$1,000,000. The mileage represented by these carriers is 220,062, or approximately 90 per cent of the total steam railway mileage of the United States.

There follows a tabulation of the claims presented to carriers and the number of these claims adjusted by them during the period of six months ended June 30, 1914.

Claims presented.

	Loss and damage.	Over- charge.	Total.
Interstate:			
Local.....	379,067	117,445	496,512
Interline.....	864,317	401,722	1,266,039
Total.....	1,243,384	519,167	1,762,551
Intrastate:			
Local.....	397,902	120,937	518,839
Interline.....	98,495	45,111	143,606
Total.....	496,397	166,048	662,445
Grand total.....	1,739,781	685,215	2,424,996

Percentage of "interstate" claims, 73; percentage of "intrastate" claims, 27.

NOTE.—The term "local" pertains to claims in connection with traffic handled by one carrier; "interline," handled by two or more carriers.

Number of the above claims adjusted.

Character of claims.	Manner of adjustment.			
	Paid.	Declined.	With-drawn.	Total.
Loss and damage.....	1,240,837	107,687	20,062	1,368,586
Overcharge.....	439,204	78,603	9,039	526,846
Grand total.....	1,680,041	186,290	29,101	1,895,432
Percentage.....	88.6	9.8	1.6	.....

Division of time in which adjustments were accomplished.

Period of adjustment.	Loss and damage.	Overcharge.	Total.	Percentage relation of each period.
After receipt:				
Within 15 days.....	769,786	266,444	1,036,230	55
Between 15 and 30 days.....	248,869	115,437	364,306	19
Between 30 and 60 days.....	202,897	90,226	293,123	16
Between 60 and 90 days.....	89,562	33,550	123,112	6
Between 90 and 120 days.....	41,297	15,846	57,143	3
Between 120 and 180 days.....	16,175	5,343	21,518	1
Grand total.....	1,368,586	526,846	1,895,432	100

NOTE.—There remained unadjusted at the end of the six-months period 529,564 claims, or 22 per cent of the claims received. This does not mean that these claims have been in the hands of carriers for six months; it means simply that at the end of a selected period 22 per cent of the claims received during that period were carried over to the next period.

It is not possible to make comparison with previous periods, as figures therefor are not available. These figures indicate, however, that, provided proper investigations have been made, claims are now being adjusted with a degree of promptness that deserves commendation. There would seem to be a basis for the assertion made by carriers that claims not settled within 15 or 30 days are of a special or peculiar character, requiring extended investigations, or are improperly presented. It is believed that the information obtained from these special reports will serve to stimulate carriers to even greater efficiency in the handling of claims.

Our twenty-fifth annual report contains a brief reference to the amounts paid by steam carriers for loss and damage to freight during each of the years 1908, 1909, and 1910, and to the downward trend of the payments from 1908 to 1910. This downward trend was taken as indicating that the heavy drain upon the revenues of carriers represented by these payments had been checked, and as further indicating that there would continue to be a gradual reduction. That such a development did not follow is evidenced by the fact that the payments increased from \$21,941,232 in 1910 to \$30,885,454 in 1913, an increase of 40.8 per cent. Freight revenue increased 14.2 per cent in the same period. An idea of the vast in-

crease in the payments for loss and damage during recent years may be gained from the fact that in 1900 carriers paid on this account \$7,055,622, and in 1913, \$30,885,454, an increase of 337 per cent. In the same period freight revenue increased 109 per cent.

As intimated in our twenty-seventh annual report, claims for loss and damage present opportunities for discrimination, the adjustment of many such claims being largely a matter of judgment which is frequently influenced by the volume of traffic controlled by particular claimants. A concession or an advantage created through the medium of a claim for loss and damage is, moreover, more difficult to detect and to establish than a direct concession from the lawfully published rate. The reason for this is obvious: Loss and damage claims often involve various questions of law and of fact, and there is no invariable or inflexible rule by which these questions can be determined. The interpretation of legal principles relative to questions of negligence and liability differs in different localities, a fact which augments the uncertainty of the application of the law and adds to the difficulties of determining the validity of such claims.

Competition for traffic plays no mean part in the adjustment of claims for loss and damage. The examinations of the accounts of carriers disclose many cases which justify the belief that certain claims of this character are paid not because the carriers feel that the claims are valid, but because claimants threaten to divert traffic unless claims are paid, and because other carriers allow similar claims. Under the act to regulate commerce carriers are charged with the duty of determining the correctness and lawfulness of claims before they may be paid, and in order to avoid discriminations it is obvious that all claims must be adjusted solely upon their merits and without regard to the traffic controlled by particular claimants.

Loss and damage to freight represents an economic waste, and the payments therefor increase the cost of transportation. For these and other reasons it follows that it is to the interest of the carriers, the shippers, and the general public that loss and damage to freight be reduced to a minimum. This can be accomplished only by ascertaining and removing the causes. Steps in this direction have been taken by the American Railway Association and the Freight Claim Association, and the Commission will lend its support to these efforts.

DIVISION OF STATISTICS.

The work of the division of statistics has been substantially similar in character to the work of that division in prior years. It includes the preparation of report forms, the analysis and correction of annual and other statistical reports from railways and

other common carriers engaged in interstate commerce, and the compilation and publication of such matters therefrom as seem of general public interest.

The Commission has always considered it inadvisable to make publication of statistical matters in permanent form until after the reports on which such publications are based have had, as far as practicable, the benefit of careful scrutiny and correction of errors. The demand for the prompt publication of returns for steam roads seems to be largely met by the bulletins of revenues and expenses pertaining to Class I roads, which are published monthly.

About a year ago the division of statistics began the issuance of a daily bulletin of revenues and expenses of carriers by railway. This was chiefly for the benefit of the press. The bulletin shows the cumulative revenues and expenses of the more important railways as reported for the latest current month for which reports are received. The Commission's rules require that the reports of steam railway companies for a particular month be mailed on or before the last day of the following month and in consequence about the 25th of each month reports for the preceding month begin to be filed in this division. As soon as enough reports are on hand to make a compilation of significance the daily bulletin showing comparative figures for the particular month for which the reports are made and also for the period from July 1 to the close of that month, as well as for the corresponding month and period of the previous year, is prepared and copies of it are given to the press and the public. During the year a bulletin compiled from the monthly reports of express companies also has been regularly made public for a similar purpose. Express companies, however, need a longer time for the preparation of their monthly reports than railway companies and are allowed three months in which to make them.

An abstract for the public, based on compilations for the Twenty-sixth Annual Report on the Statistics of Railways in the United States for the year ended June 30, 1913, was issued under date of July 1, 1914, and the copy for the complete report was sent to the printer within a short time thereafter. It is expected that this report will be published about the 1st of January.

The preparation of the Preliminary Abstract of Statistics of Common Carriers for the year ended June 30, 1914, the fourth in the series, was begun as soon as annual reports were received from the respective companies included in the report, so that its publication could be effected at the earliest practicable date. This abstract is based on the reports of carriers as rendered, thus being preliminary and subject to revision. It includes important financial and operating statistics of individual steam railway companies having annual operating revenues above \$1,000,000, and of the Pullman Co. It also

includes a statement of the income account and profit and loss account of the principal express companies in the United States.

For revised figures relating to railways and to express companies, reference should be made to the Commission's annual volumes issued under the titles "Statistics of Railways in the United States" and "Statistics of Express Companies in the United States."

In accordance with custom, there are presented in Appendix C various figures compiled from annual and other periodic reports of carriers recently filed with the Commission.

SEPARATION OF OPERATING EXPENSES.

During the year the Commission has further considered the matter of railroad operating costs. In the disposition of rate cases before it the Commission has always considered the cost of performing various services in so far as the proper statistics were available and applicable. Such application has been limited because of a lack of information, due to the fact that the Commission in recent years has not required carriers to regularly apportion their operating expenses to the various branches of the railroad service.

Prior to 1894 carriers were required to make a general separation of operating expenses between freight and passenger services in their annual reports. The summaries of this information appeared annually in the Statistics of Railways in the United States. In 1894, because the method employed proved defective, this requirement was abandoned. Since 1894, however, much progress has been made in the general subject of cost accounting, both in manufacturing and in transportation. Many railways now apportion their expenses by classes of service on their own initiative. From 60 to 70 per cent of the operating expenses of railway companies can be apportioned in a fairly satisfactory manner between freight and passenger services.

In view of these developments the Commission decided to reconsider the matter of requiring carriers to apportion their operating expenses. After extensive preliminary inquiries a hearing was held in Washington May 2, 1914. A diversity of views was developed. Some carriers desired the Commission to prescribe fixed formulas for apportioning all operating expenses, in the belief that the results would be helpful in rate litigation. Others contended that the results would prove of little use either to the carriers or commissions and would not justify the extra expense which careful cost accounting would entail. Various other considerations were advanced for and against the plan. Following this hearing and on June 13, 1914, the Commission issued a report upon the subject, entitled *In the Matter of the Separation of Operating Expenses*, 30 I. C. C., 676. This report requires class 1 roads, embracing carriers whose revenues exceed \$1,000,000 per annum, to separate their operating expenses

between freight and passenger services on certain prescribed bases. The division of statistics, in cooperation with committees representing the American Railway Association and the Association of American Railway Accounting Officers, is at present at work in devising a plan for accomplishing the results contemplated which will not be unduly burdensome to the carriers and which will at the same time yield statistical data of a fundamental character of value alike to the carriers and to the Commission. Upon the completion of this preparatory work a proper order will be entered.

DIVISION OF SAFETY.

The Commission has grouped its work in administration of the safety appliance and kindred acts in a division of safety. A detailed report of the work of this division is published separately.

SAFETY-APPLIANCE ACTS.

During the fiscal year ended June 30, 1914, 171 employees were killed and 2,694 injured in the coupling and uncoupling of cars. The corresponding figures for the two preceding years were 192 deaths and 3,236 injuries in 1912 and 195 deaths and 3,361 injuries in 1913. Casualties resulting from overhead and side obstructions and from falling from and getting on and off cars occasioned during the past fiscal year 643 deaths and 16,428 injuries to employees. These figures for the year ended June 30, 1912, were 704 deaths and 15,721 injuries; and for the year 1913, 721 deaths and 18,257 injuries.

During the fiscal year 257 cases, involving an aggregate of 1,020 violations of the safety-appliance acts, were transmitted to the several United States attorneys for prosecution. Cases comprising 149 counts were tried in court, of which 121 counts were decided in favor of the Government. Cases involving 43 counts were argued in the Circuit Courts of Appeals, 17 of which were decided in favor of the Government and 26 for the defendant. The decisions of the Circuit Court of Appeals on these 26 counts will be taken to the Supreme Court on writ of error. Carriers confessed judgment during the year as to 483 counts. Penalties aggregating \$78,700 were assessed.

In its annual reports for 1912 and 1913 the Commission adverted to the insufficiency of inspection by the carriers in certain instances at terminals and repair points. From the number of violations reported for prosecution it is evident that cars continue to be moved away from repair points in a defective condition, when slight repairs would render them conformable to the statute. The need of adequate repair facilities at all essential points is obvious, and the desirability of carriers requiring from responsible employees at such points a working knowledge of the safety-appliance acts and of the orders of the Commission can not be too strongly emphasized.

The period in which equipment other than freight cars was to have been made conformable to the standards fixed by the Commission's

order of March 13, 1911, pursuant to the act of April 14, 1910, has now expired, and conditions generally in this respect are satisfactory. As to freight cars, however, the number equipped as compared with the number to be equipped is disproportionately small, and only the exercise of the greatest diligence will enable the carriers to standardize their freight equipment within the interval that yet remains.

The Commission has caused to be prepared and issued as a public document a Digest of Decisions published prior to October 1, 1914, in which the Federal safety-appliance and hours-of-service acts have been construed.

JUDICIAL INTERPRETATION OF THE SAFETY-APPLIANCE ACTS.

Since the publication of the last annual report the Supreme Court has affirmed the decision of the Circuit Court of Appeals for the Third Circuit, 203 Fed., 681, to the effect that the safety-appliance acts do not require automatic couplers between locomotives and tenders. *Pennell v. Philadelphia & Reading Railway Co.*, 231 U. S., 675.

In *Southern Railway Co. v. Crockett*, 234 U. S., 725, it was held that by the amendment of 1903 the standard height of drawbars was made applicable to locomotive engines as well as to freight cars.

In *Spokane & I. E. R. Co. v. United States*, 210 Fed., 243, the Circuit Court of Appeals for the Ninth Circuit, affirming the judgment of the District Court for the Eastern District of Washington, held that the words "used on street railways," as employed in the act of 1893, exempting such cars from the operation of the statute, do not include cars of an interurban line engaged in interstate commerce, even though they may be run for a short distance over the street railway tracks in order to reach a terminal in the center of a city.

In *Chicago, Burlington & Quincy Rail Road Co. v. United States*, 211 Fed., 12, the Circuit Court of Appeals for the Eighth Circuit held that the provisions of the safety-appliance acts, other than those relating to air-brake equipment, apply to switching operations; that the movement of a car with an inoperative coupler is not excused by the operative condition of the coupler on an adjacent car to which it is connected and from which it may be uncoupled by means of the lever on such adjacent car; and that a carrier in order to bring itself within the proviso in the act of April 14, 1910, so as to justify its movement of a defective car "to the nearest available point" where such car might be repaired, must show not only that the repairs could not have been made where the defects were discovered, but that the movement of the car was for the purpose of repair. It was further held, however, in this case that the air-brake provisions of the act do not apply to switching operations, and that the movement by a switching crew of a string of cars from one terminal yard to

another in the same city for distribution into outgoing trains was a switching operation, notwithstanding the distance between the yards was two miles, and the cars were moved over a main-line track used also by other roads. On petition of the Government a writ of certiorari to the Supreme Court has been granted upon the air-brake question involved in this decision.

To the same effect is the decision in *United States v. Erie Railroad Co.*, 212 Fed., 853, wherein the Circuit Court of Appeals for the Third Circuit reiterates its conclusion previously announced in 197 Fed., 287, that the air-brake provisions of the act were not intended to apply to intraterminal or switching movements. A writ of error has been filed to take this case to the Supreme Court.

A decision directly opposed to the two last cited, in so far as those cases relate to the air-brake provision of the act, however, was announced in *United States v. Atlantic Coast Line Railroad Co.*, 214 Fed., 498, in which the District Court for the Southern District of Florida held that the provisions of the act apply no less to switching movements than to main-line operations. And a similar conclusion was reached by the Supreme Court of Minnesota, after full consideration of all the cases on this subject, in the case of *La Mere v. Railway Transfer Co. of Minneapolis*, 145 N. W., 1068.

In *United States v. Chesapeake & Ohio Railway Co.*, 213 Fed., 748, the Circuit Court of Appeals for the Fourth Circuit, construing the proviso in the act of 1910, held that where a car was equipped at the inception of its journey as contemplated by the statute and thereafter found to be defective, it was incumbent upon the carrier to repair such defect as soon as the services of a repair man could be had, provided such defects were remediable at the point of discovery; that otherwise such defective car might have been hauled to the nearest available point where such defects might have been repaired, but not used in the meantime on the lines of the carrier between stations or in its yards.

In the case of *United States v. Trinity & Brazos Valley Railway Co.*, 211 Fed., 448, the Circuit Court of Appeals for the Fifth Circuit held that a carrier, in order to justify the movement of a defective car under the proviso in the act of 1910, must show that such car was properly equipped when it started on its journey and that it became defective while in use on such carrier's road; and that where the movement of a car was continued in a train in commercial use after such car had become defective, the carrier to be relieved of liability must show that such movement was necessary in order to reach the nearest point where the defects involved might be repaired.

In two unreported cases against the Northern Pacific Railway Co., decided December 5-6, 1913, by the District Court for the Western

District of Washington, the jury was instructed that efficiency of a hand brake comprehends its efficiency for the purpose of stopping or holding a car or train as well as its efficiency as a matter of safety to employees engaged in work requiring the use of the hand brake; that the "nearest available point," as used in the act, means the nearest available point for making repairs of the kind the particular car in question needs; that the act prohibits the movement of a car by means of chains instead of drawbars, unless such car contains live stock or perishable freight, beyond the nearest point where it may be diverted from the main-line track; and that unless such car is repaired at such point of diversion it can be hauled to a repair point only in a nonrevenue train and dissociated from cars commercially used. The jury was also instructed that a carrier, in order to justify the movement of a defective car under the proviso in the act of 1910, must establish the necessity of such movement for the purpose of repair, and the fact that such repairs could not have been made except at such repair point.

ASH-PAN ACT.

During the fiscal year ended June 30, 1914, three cases involving three violations of the ash-pan act were transmitted by the Commission for prosecution, and defendants confessed judgment as to three counts. Penalties in the sum of \$1,600 were assessed.

Practically all locomotives subject to the ash-pan act have been equipped as contemplated by the statute, and the principal duty now devolving upon the carriers in this respect is to maintain in an operative condition the devices already installed.

HOURS-OF-SERVICE ACT.

During the fiscal year ended June 30, 1914, 233 cases, involving an aggregate of 2,871 violations of the hours-of-service act, were transmitted to the several United States attorneys for prosecution. During the same period the carriers confessed judgment as to 1,785 counts. Of the 592 counts which went to trial, 395 resulted in favor of and 164 adversely to the Government, and 33 are still pending decision. Of the cases originally decided in favor of defendants, 34 counts have been appealed by the Government, and 38 of the 395 counts originally decided in favor of the Government have been appealed by defendants. Of 121 counts argued in the Circuit Courts of Appeals 98 were decided in favor of the Government. Penalties aggregating \$162,422 were assessed.

The analysis of carriers' monthly hours-of-service reports, exhibiting the number of instances and the causes of excess service, as described in the last annual report of the Commission, has been con-

tinued through the past fiscal year, and the summaries developed show a marked reduction in the volume of excess service.

During the fiscal year 1,194 railroads filed complete reports. Of these, 739 certified each month under oath that no excess service has occurred on their respective lines. The remaining 455 carriers reported an aggregate of all classes of excess service of 165,305 instances in which employees were on duty for longer periods than those permitted by the statute.

The published tables show an aggregate of all classes of excess service reported during the year of 163,192 cases, a reduction of 136,761 instances from those exhibited by the summaries for 1913. The number of instances reported during the past fiscal year, however, appears to be still unduly large, particularly those caused by hot boxes, defective couplers, and miscellaneous car defects, and it is suggested that a more rigid inspection of equipment at terminals and repair points by the carriers would effect a substantial diminution in the number of reportable cases.

Attention is again directed to the diversity of opinion in the various courts as to the proper penalties to be assessed for violations of the hours-of-service act. A bill is now pending in Congress which, if passed, should remedy this situation.

Attention is also directed to the considerable number of instances of excess service attributed to "broken drawbars," "leaky flues," "hot boxes," and other circumstances ordinarily to be expected in the operation of trains, and the Commission respectfully renews its former recommendation that the proviso in section 3 of the hours-of-service act be so amended as clearly and specifically to define the causes which shall excuse the carriers' retention of employees on duty for periods longer than those prescribed, and the extent to which such retention shall be justified.

JUDICIAL INTERPRETATION OF THE HOURS-OF-SERVICE ACT.

In *Missouri, Kansas & Texas Railway Co., of Texas v. United States*, 231 U. S., 112, it was held that where several employees are required to render service in excess of that permitted by the hours-of-service act, even though the detention of all may be attributable to a single cause, a separate penalty is incurred as to each employee so detained; and that an employee, subject to call, waiting for a train to move, and not permitted to go away, is on duty within the meaning of the act. It was also held that the penalty assessable under the hours-of-service act is determinable by the court and not by the jury.

In *United States v. Southern Pacific Co.*, 209 Fed., 562, the Circuit Court of Appeals for the Eighth Circuit, affirming the decision of the District Court for the District of Utah, held that while sudden

illness might not in all cases constitute an emergency within the meaning of the act, the sudden illness of one of three regular train dispatchers, supplemented by the inability of the company to procure a substitute, excused the retention on duty of the two remaining train dispatchers for periods in excess of 9 hours out of 24. It was also held that the word "week," as used in the statute, means any period of seven days, and is not restricted to a calendar week.

In *United States v. Missouri Pacific Railway Co.*, 213 Fed., 169, the Circuit Court of Appeals for the Eighth Circuit, affirming the judgment of the District Court for the District of Kansas, held that the defendant was justified in requiring an operator in a day office to remain on duty for a longer period than that ordinarily permitted by the statute, where the excess service was occasioned by the necessity of detouring trains around a wreck resulting from an unavoidable accident.

In *Missouri Pacific Railway Co. v. United States*, 211 Fed., 893, the Circuit Court of Appeals for the Eighth Circuit reversed the judgment rendered by the District Court for the Western District of Missouri and directed a new trial. The appellate court held that the act does not apply to switch tenders charged merely with the duty of operating signals and switches in accordance with orders received by telephone.

The case of *United States v. Atlantic Coast Line Railroad Co.*, decided by the District Court for the District of South Carolina, was reversed by the Circuit Court of Appeals for the Fourth Circuit in *United States v. Atlantic Coast Line Railroad Co.*, 211 Fed., 897. The appellate court held that no distinction is to be drawn between offices in which train orders originate and from which they are issued, and local offices which merely receive and deliver the orders so issued, and which may be open during the daytime and a substantial portion of the night in each 24-hour period; hence, where a local telegraph office was regularly kept open for business from 6.30 a. m. to 10.15 p. m. in each 24-hour period, it was an office continuously operated night and day and fell, therefore, within the 9-hour provisions of the act.

In an unreported case against the Northern Pacific Railway Co., decided February 13, 1914, by the District Court for the Western District of Washington, it was held that an employee goes on duty, within the meaning of the hours-of-service act, when he reports for work, and that he so remains on duty until he reaches the end of his run, or until he is relieved from all service or responsibility in connection with his train, and is given an unqualified, bona fide release for a definite and substantial period. And in *United States v. Northern Pacific Railway Co.*, 213 Fed., 539, the District Court for the Eastern District of Washington ruled that a definite and predeter-

mined intermission of 1 hour and 30 minutes, during which a train crew waited for superior trains to meet and pass, did not break the continuity of service of such employees.

In *San Pedro, Los Angeles & Salt Lake Railroad Co. v. United States*, 213 Fed., 326, the decision of the District Court for the District of Utah, to the effect that requiring or permitting a fireman who has been on duty as such for 16 hours and is thereafter required to watch an engine is a violation of the hours-of-service act, was affirmed by the Circuit Court of Appeals for the Eighth Circuit. Similar decisions were sustained by the Circuit Court of Appeals for the Ninth Circuit in *Great Northern Railway Co. v. United States*, 211 Fed., 309, and *Northern Pacific Railway Co. v. United States*, 213 Fed., 577.

The District Court for the Western District of South Carolina, on October 30, 1913, in a case against the Southern Railway, unreported, held that the occurrence of a delay occasioned by an act of God, a casualty or an unavoidable accident, while a train was in course of transit from one terminal to another, did not suspend the act as to that train; but that its application was suspended only so far as might have been necessary to permit the crew to reach a point at which, with due regard to all the circumstances, the crew might have been relieved, or have had an opportunity to take the rest intended by the statute.

But in *United States v. Atchison, Topeka & Santa Fe Railway Co.*, 212 Fed., 1000, the District Court for the District of Arizona held that where a passenger train was delayed by the derailment of a freight train, after the crew had left its starting point, the company was not bound to tie up the train at the first stopping place where its crew could have been replaced, but was entitled without incurring liability to operate the train to the end of the passenger crew's run, the word "terminal" as used in the act being synonymous with "the end of the run" of the particular crew involved. It was further held, however, that where an interstate revenue train was delayed by the hauling, in violation of the safety-appliance act, of a car containing neither live stock nor perishable freight, by means of a chain, after its drawhead had become broken, the delay was not the result of a casualty or unavoidable accident within the proviso in the hours-of-service act.

In *United States v. Oregon-Washington Railroad & Navigation Co.*, 213 Fed., 688, the District Court for the Eastern District of Washington held that the duty of carriers under the act is absolute; that the word "permit" as used in the statute means "a failure to prohibit by one who has the power and authority to do so;" and that the defendant could not plead as a defense to an action for the penalty provided by the act the fact that the excess service involved

had been performed without its knowledge and against its positive directions.

In *Northern Pacific Railway Co. v. United States*, 213 Fed., 162, the Circuit Court of Appeals for the Eighth Circuit held that the omission by a carrier from its hours-of-service report, submitted in good faith and within the period prescribed therefor by the Commission's order of June 28, 1911, of one or more instances of excess service that should have been reported, or any mistake of law or fact made in good faith therein, does not subject such carrier to the penalties or forfeitures prescribed by section 20 of the act to regulate commerce.

But in an unreported case against the Oregon-Washington Railroad & Navigation Co., decided April 20, 1914, by the District Court for the Eastern District of Washington, based upon the failure of defendant to report to the Commission as required by its order of June 28, 1911, certain instances of excess service, the carrier relied entirely, as a defense, upon the fact that the Commission had not attached to or included with the order as served upon the defendant certain "accompanying forms" therein described. Forms concededly identical, however, with those in issue had been employed by the carrier in the preparation of reports submitted for the months in which the instances omitted had occurred. The court held that the requirement of service of the order rested entirely on the terms of the order itself; that service of the order was intended for no other purpose than to impart notice to the carriers affected by it; that defendant had full notice of the order and of its requirements, and full opportunity to comply with its provisions, and that the most formal service could have accomplished nothing more than this. The contention of defendant was accordingly denied.

INVESTIGATION OF ACCIDENTS.

Sixty-three train accidents were investigated by the Commission during the year ended June 30, 1914. Forty of these accidents were collisions and 23 were derailments. They caused the death of 169 and the injury of 2,134 persons. The collisions investigated were responsible for 108 deaths and 1,162 injuries and the derailments caused 61 deaths and 972 injuries. Thirteen of these collisions, causing 39 deaths and 442 injuries, occurred where the block system was in use, and 24 collisions, involving 64 deaths and 713 injuries, occurred under the train-order system. Three collisions, causing 5 deaths and 7 injuries, occurred in yard movements where the system of train operation was not a factor.

Collisions caused by improper flagging continue to be a prominent feature of these investigations. Eight of the 40 collisions investigated were due to this cause. In these 8 collisions 45 persons were

killed and 386 injured. Attention has been called to the indefiniteness of the flagging rule in force on many roads, and the practice of employing inexperienced men as flagmen. A noticable effort has been made on a number of roads to improve the situation in this respect, but there is still abundant opportunity for betterment. In one collision, due to improper flagging, which caused 14 deaths and 294 injuries, the flagman at fault had been employed only 24 days and was entirely without previous railroad experience. He had not been examined on the rules, and apparently no effort had been made to ascertain his fitness to perform the duties imposed upon him. When men of such little experience are employed as flagmen, and are permitted to work without any examination to determine their knowledge of the rules, it is unreasonable to assume that they will properly perform their duties, and accidents due to improper flagging may be expected to occur.

The record of accidents investigated shows a considerable decrease in the number of collisions due to the failure of enginemen to obey the indications of block signals. There were but 2 collisions of this nature during the past year, as against 7 the previous year. The 2 collisions herein noted occurred in connection with the movement of high-speed passenger trains on a road equipped with the most modern system of automatic block signals. The enginemen at fault were trusted employees of long experience, one of whom was killed in the collision resulting from his mistake. As previously noted, no adequate explanation can be given for these lapses from duty by trusted and competent men, who in many cases suffer death as a consequence of their error. It is to be hoped that the investigations authorized by the Congress, mentioned in another part of this report, may lead to the development and use of some system of automatic train control to be used in connection with existing systems which will eliminate this class of accidents.

The inherent weakness of the train-order system continues to manifest itself as a prominent feature of the accident record. In 13 of the 40 collisions investigated it appeared that 7 were caused by trains encroaching upon the time of superior class trains and 6 were caused by the failure of trainmen to obey orders. In these 13 collisions 26 persons were killed and 179 injured. Danger of collisions under the train-order system is often increased by the failure of railroad operating officers to employ safeguards provided for by the rules. On most roads where the train-order system is used the rules require that an order establishing a meeting point for opposing trains shall be sent simultaneously to all the trains involved, and also, whenever practicable, to the operator at the designated meeting point, thus providing a check against the possibility of trainmen forgetting or misunderstanding the order. This check, provided by the so-called

"middle order," is an important element of safety in the movement of trains on single-track lines, but on some roads the rule which requires it to be used is not observed. Two of the collisions herein discussed, causing the death of 5 persons and the injury of 3, could have been prevented by an observance of the rule, and in both cases the placing of a middle order was practicable. Investigation developed the fact that on one of the roads the rule was observed only when passenger trains were involved, and that on the other road it was not observed at all and had not been enforced for several years previous to this collision, although it had never been rescinded.

Improvement is to be noted in the matter of inspection and supervision of the work of train service employees. On many roads where scant attention formerly was paid to such matters efforts are now being made to insure that employees are familiar with their duties and competent to perform them, and strict obedience to rules is being insisted upon. This improvement is largely due to the work of safety committees in bringing employees and operating officers closer together and inducing them to co-operate for the attainment of safe operating conditions. Such work can not be too highly commended. When conducted along lines calculated to inspire confidence in the minds of employees it can not fail to awaken their enthusiasm and command their earnest support, thus insuring a decrease in the number of avoidable accidents.

Attention is again directed to the need of legislation requiring the standardization of operating rules. That uniformity in rules which is necessary to safety can only be secured by the compulsion of Federal legislation. The efforts of the American Railway Association to standardize operating rules, while commendable, have not been wholly effective, for the reason that the association has no power to compel individual roads to observe its recommendations. The situation is similar to that which led to the passage of Federal legislation enforcing uniformity in the application of safety appliances to cars and engines. With proper rules and operating practices, uniformly applied and enforced on all interstate roads, a decrease in railway accidents may be expected.

In previous annual reports the Commission has called attention to bad conditions of track and roadway which are responsible for many derailments. No material improvement in such conditions during the period covered by this report is noticeable. Six of the 23 derailments investigated were either directly caused or greatly contributed to by bad track. These six derailments were responsible for 33 deaths and 492 injuries, while in all derailments investigated 61 persons were killed and 972 injured. It thus appears that in the derailments investigated bad track conditions were responsible for 54 per cent of the deaths and more than 50 per cent of the injuries due to such derailments from all causes. In at least three of these

derailments, occurring in widely separated sections of the country, the track conditions were absolutely unsafe for the operation of trains at speed, and it did not appear that on the roads involved any proper system of track inspection was maintained, or that adequate facilities, in the way of material and labor, for keeping track and roadway in good condition were furnished.

Attention is again called to the lack of definite information respecting track and rail conditions under the increased wheel loads due to the use of heavier locomotives and cars and higher rates of speed. Investigations of accidents caused by broken rails and fractured car wheels have confirmed the need for further investigation to determine with accuracy the stresses to which rails, car wheels, and track structures are subjected under existing conditions of service, and to establish safe working limits for their use.

The Commission renews the recommendation contained in its last annual report respecting legislation requiring the use of steel cars. Experience has demonstrated that steel cars are superior to wooden cars from the standpoint of safety, and the use of wooden cars in front of or between steel cars in high-speed trains should be prohibited.

INVESTIGATION OF SAFETY DEVICES.

Under the provisions of the appropriation act of October 22, 1913, the Commission was authorized and directed to investigate and report regarding the use and necessity of block signal systems, appliances for the automatic control of railway trains and any devices intended to promote the safety of railway operation, and under certain conditions to conduct experimental tests. In December, 1913, the Commission assigned to its division of safety the duty of carrying out these directions of law, and for the purpose of conducting the necessary investigations an engineer-physicist and a signal engineer were employed; other employees of the Commission were also assigned to this work, the organization for carrying on these investigations being completed in February, 1914.

A circular dated December 10, 1913, setting forth the procedure necessary to be followed in submitting devices and systems for consideration, was prepared and distributed. At the time this work was taken up the plans of many devices and systems intended to promote the safety of railway operation which had been presented for consideration were already in the files of the Commission, and since then plans of a considerable number of other devices have been submitted. Detailed information regarding the examination of these appliances is contained in the separately published report of the chief of the division of safety.

Information has been received regarding experiments with train-control devices on several railroads, and in some instances official

tests have been made. Within the past year the American Railway Association has adopted certain definitions and requisites for installation of automatic train-control systems and has specified certain adjuncts which may be used in connection with such systems.

A tabulation of statistics pertaining to block signals, interlocking plants, and the telegraph and the telephone for transmission of train orders as issued on the railroads in the United States was published by the Commission under date of January 1, 1914. As shown therein, the total length of railroad line operated under the block system at that time was 86,736.9 miles. The increase during the year 1913 was 2,787.1 miles.

In previous reports the Commission has recommended that railroads be required to adopt the block system.

INSPECTION OF LOCOMOTIVE BOILERS.

The third annual report of the chief inspector of locomotive boilers shows, in addition to the report for the year 1914, a comparative summary of the work during the three-year period. It is believed that sufficient time has elapsed since the law has been in force to permit the benefits which may reasonably be accredited to its operation to be fairly shown.

The following table shows in concrete form the inspection work performed each year since the passage of the law; and the decrease in the percentage of locomotives reported defective indicates in a measure the improvement in conditions.

	1914	1913	1912
Locomotives inspected.....	92,716	90,346	74,234
Found defective.....	49,137	54,522	48,768
Percentage found defective.....	52.9	60.3	65.7
Ordered out of service.....	3,365	4,676	3,377

This table does not show fully the improved conditions resulting from the operation of the law, because, as pointed out in the 1913 report, attention was first concentrated on the more serious defects, so that the number of fatalities might be reduced; therefore, the improvement is more accurately indicated by the reduction in the number of casualties resulting from boiler defects, as shown by the following table:

	1914	1913	1912
Accidents.....	555	820	856
Decrease from previous year..... per cent..	32.3	4.2	
Decrease from 1912..... do.....	35.1		
Killed.....	23	36	91
Decrease from previous year..... per cent..	36.1	60.4	
Decrease from 1912..... do.....	74.7		
Injured.....	614	911	1,065
Decrease from previous year..... per cent..	32.6	9.3	
Decrease from 1912..... do.....	38.9		

The facts shown in the above tables are so conclusive that it is not necessary to enlarge on the information contained therein.

In addition to the inspection work above shown, a careful investigation has been made of every accident reported in accordance with the provisions of the locomotive boiler inspection law. In each case active steps were taken to remedy any conditions or practices which could be shown to have caused or contributed to the cause of the accident; and this action has materially assisted in reducing the accident list.

Four hundred and six applications for extension of time for removal of flues, in accordance with the provisions of rule 10, were filed, of which number 67 were withdrawn by the railroad companies before an investigation was made. An investigation was made in each of the remaining 339 cases, in 264 of which the full extension asked for was granted, in 21 an extension for a portion of the time asked for was allowed, and 54 applications, or 16 per cent of the total number, were refused after an investigation.

Rule No. 2 of the locomotive boiler inspection rules provided that—

The lowest factor of safety to be used for all locomotives in service or under construction on or before January 1, 1912, will be fixed after investigation and hearing, and after the expiration of the time allowed for filing specification cards.

In accordance therewith a careful investigation, extending over the two-year period allowed for filing specification cards, was conducted by the division of locomotive boiler inspection. This investigation showed that 11,153 locomotives, or about 17 per cent of the total number for which specification cards were filed, had a factor of safety below 4, being divided as follows:

4,407 with a factor between $3\frac{1}{2}$ and 4.

2,531 with a factor between $3\frac{1}{2}$ and $3\frac{1}{4}$.

2,039 with a factor between $3\frac{1}{4}$ and $3\frac{1}{2}$.

1,082 with a factor between 3 and $3\frac{1}{4}$.

1,094 with a factor below 3, on some of which the factor was found to be below 2.

This factor is based on the ultimate tensile strength of the material; the elastic limit, at which point the metal takes a permanent set and never recovers, is usually about one-half of the ultimate tensile strength; therefore, the imperative need of increasing the factor to a point which might reasonably be expected to provide adequate protection against flaws or hidden defects in the material, poor workmanship, and undiscovered deterioration, becomes apparent.

All of these points were carefully considered at a conference held at the office of the chief inspector of locomotive boilers on April 28 and 29, 1914, at which the railroad companies and their employees

were represented, and suitable amendments to the rules, providing for improved methods of construction and increased safety of operation, were agreed upon.

It was also found that there were many locomotives in service with excessive stresses on stays and braces, therefore a maximum allowable stress for stays and braces was included in the amendments to the rules.

In preparing these amendments the practice established by the Commission in previous cases of a similar character was followed, and a series of time limits was provided for the making of the necessary changes, so arranged as to require the more serious conditions to be promptly remedied and allow more time for other necessary improvements in cases where the conditions, while improper, were not so likely to cause accidents. Therefore the amended rules as approved by the Commission on June 9, 1914, will not materially add to the expense of maintenance, as the required improvements can, in most instances, be made when the locomotives are shopped for regular repairs.

Two formal appeals from the decision of inspectors, as provided in section 6 of the law, were filed during the year, in both of which a subsequent investigation resulted in the decision of the inspector being sustained.

No prosecutions for violations have been sought during the year, as the beneficial effect of the law and rules is being generally recognized by railroad officials, most of whom show a disposition to comply with the requirements and to co-operate in bringing about improved conditions. On two or three of the larger roads, however, and on several smaller ones, conditions and practices appear to indicate that we may be unable to obtain a full compliance with the requirements of the law without resorting to the courts.

During the year 2,141 defects to locomotives for which existing laws do not provide a remedy, 1,155 of which were defective wheels, were reported to this division by inspectors and brought to the attention of the railroad officials, with request that proper repairs be made. In the interest of safety this work will be continued by our inspectors.

PANAMA CANAL ACT.

That provision of section 11 of the Panama Canal act approved August 24, 1912, amending section 5 of the act to regulate commerce, contains the following:

From and after the first day of July, nineteen hundred and fourteen, it shall be unlawful for any railroad company or other common carrier subject to the act to regulate commerce to own, lease, operate, control, or have any interest whatsoever (by stock ownership or otherwise, either directly, indirectly, through

any holding company, or by stockholders or directors in common, or in any other manner) in any common carrier by water operated through the Panama Canal or elsewhere with which said railroad or other carrier aforesaid does or may compete for traffic or any vessel carrying freight or passengers upon said water route or elsewhere with which said railroad or other carrier aforesaid does or may compete for traffic; * * *

Jurisdiction is hereby conferred on the Interstate Commerce Commission to determine questions of fact as to the competition or possibility of competition, after full hearing, on the application of any railroad company or other carrier. Such application may be filed for the purpose of determining whether any existing service is in violation of this section and pray for an order permitting the continuance of any vessel or vessels already in operation, or for the purpose of asking an order to install new service not in conflict with the provisions of this paragraph. * * *

If the Interstate Commerce Commission shall be of the opinion that any such existing specified service by water other than through the Panama Canal is being operated in the interest of the public and is of advantage to the convenience and commerce of the people, and that such extension will neither exclude, prevent, or reduce competition on the route by water under consideration, the Interstate Commerce Commission may, by order, extend the time during which such service by water may continue to be operated beyond July first, nineteen hundred and fourteen. * * *

Provided. Any application for extension under the terms of this provision filed with the Interstate Commerce Commission prior to July first, nineteen hundred and fourteen, but for any reason not heard and disposed of before said date, may be considered and granted thereafter.

As stated in our last annual report, the Commission, under date of December 2, 1913, issued a circular advising all carriers intending to present applications under the provisions of this act to do so not later than March 1, 1914. In view, however, of the provision of the act last above quoted, permitting the filing of such applications at any time prior to July 1, 1914, the carriers continued to present them until within a few days of that date. It having become apparent to the Commission that it would be impossible to investigate prior to July 1 all of the cases being presented, particularly since so many of them were not being filed far in advance of that date, the Commission found it necessary to determine what was its duty and authority as to the status after July 1 of the petitioning carriers with respect to the water lines covered by their applications. After careful consideration of the matter in an effort to give effect to all of the provisions of this act above quoted, and it being obvious that any other course would probably result in the summary discontinuance, on July 1, of more or less boat-line service, to the inconvenience of the public, the Commission, on April 14, 1914, in a conference ruling announced its conclusions as follows:

Section 5 of the act as amended by the Panama Canal act prohibits common carriers subject to the act to have after July 1, 1914, any interest, directly or indirectly, in any common carrier by water, or any vessel carrying freight or passengers, with which said carrier does or may compete for traffic.

The manifest purpose of this law is to bring about discontinuance of common ownership or control of water carriers except in those instances in which, after investigation and hearing, it is found that such operation is in the interest of the public, or of advantage to the convenience and commerce of the people, and neither excludes, prevents, nor reduces competition on the route by water. The act does not in specific words authorize the continuance of such common ownership or control beyond July 1, 1914, pending decision of the Commission on application relative thereto, but it is provided that any application filed before July 1, 1914, may be considered and granted thereafter. It is not conceivable that the Congress intended that the service should be withdrawn from the public on July 1, 1914, if for good and sufficient reasons it had been impossible for the Commission to determine the questions presented in the application before that date. Although the language employed is different, it seems that the legislative intent was similar to that expressed in the amended fourth section of the act, and in the safety-appliance acts. The Commission, therefore, interprets the amendment to section 5 of the act as contemplating and authorizing a continuance of any existing common ownership or control after July 1, 1914, between rail and other carriers and water carriers not traversing the Panama Canal until such time as the Commission has passed upon the application relative thereto, provided such application is filed with the Commission prior to July 1, 1914.

There have been filed 58 applications, embracing 79 water-line interests. It has been found that much preliminary investigation is necessary to a full disclosure of the past and present relations between the rail carriers and the water lines in which they are interested, and the control or influence exercised by the former over the latter, in order that the Commission may dispose of the questions involved in these applications in justice to the carriers and the public, according to the manifest purposes of the statute. These investigations are well under way. Hearings have been had in various parts of the country interested in and affected by these questions, and others are assigned for early dates. It is hoped that during the coming year disposition may be made of most if not all of these cases.

DIVISION OF VALUATION.

The manifest purpose of the act of March 1, 1913, is to secure a complete and accurate inventory and valuation of the properties of common carriers subject to the act to regulate commerce.

Broadly speaking, the present work of the Commission under this act falls under two general heads: First, ascertainment of the cost of reproduction of the property new, and also less depreciation; second, ascertainment of the original cost of the property to date, together with certain information as to its financial and corporate history. The first is largely engineering, the second accounting. The act also requires certain specific information as to lands, rights of way, and terminals. The value of these is a considerable part of the total value of a railway property. It follows that the work of the division

of valuation is done through three subdivisions—engineering, accounting, and land. There is also a branch of the division of law which deals with questions arising in the general conduct of this work.

ENGINEERING.

In the last report of the Commission it was stated that the country had been divided into five districts, each embracing about 50,000 miles of railroad, and that an engineer with an assistant engineer had been placed in charge of the engineering work in each district.

For the purpose of the initial work a single railroad was selected in each district, the maps of which were in fairly good condition and which was thought to offer a variety of problems. The roads selected, together with the approximate length of each, are given below:

District.	Road.	Length.
		<i>Miles.</i>
Eastern.....	Norfolk Southern.....	900
Southern.....	Atlanta, Birmingham & Atlantic.....	600
Central.....	New Orleans, Texas & Mexico.....	175
Western.....	Texas Midland.....	122
Pacific.....	San Pedro, Los Angeles & Salt Lake.....	1,000

At first a single field party was put at work upon each road. From time to time additional field parties were organized, and the forces have been gradually increased until, beginning with the month of September, eight full parties were employed in each district. A regular field party is composed of nine men, as follows: One assistant field engineer, one recorder, two computers, one instrument man, one rodman, one head chainman, one rear chainman, and one tape-man.

Surveys upon the Texas Midland were completed in May, and upon the New Orleans, Texas & Mexico soon afterwards. The final assembled results of the surveys of these properties have, however, only recently been completed. This delay was occasioned partly by the necessity of drawing up the requisite forms and determining the manner in which the information should be put together and partly by the delay in obtaining the printed forms when prepared.

After the completed inventory of the physical property of a railroad has been assembled it is necessary to apply the proper prices to the respective units. The determination of these unit prices is now in progress. They can only be ascertained through an extensive examination of the accounts of railroads and from other sources.

Field work has been finished upon the San Pedro, Los Angeles & Salt Lake Railroad and substantially finished upon the Atlanta, Birmingham & Atlantic. Upon the Norfolk Southern it will be finished about December 1. Assembled inventories will therefore be completed for all these roads in the near future.

The engineering work has been extended to other railways in all the districts. In the eastern district the most of the parties are at work upon the Boston & Maine. With the coming of cold weather these parties, as well as those now engaged upon the Norfolk Southern, will be transferred to the lines of the Pennsylvania south of Philadelphia and to the Winston-Salem branch of the Norfolk & Western. In the southern district work is now in progress upon the Central of Georgia and upon the Cleveland, Cincinnati, Chicago & St. Louis Railroads; in the Central district, upon the Elgin, Joliet & Eastern and the Chicago & Eastern Illinois. It is proposed to begin work upon the lines of the Illinois Central south of the Ohio River about December 1. In the western district parties are now engaged upon the Kansas City Southern and the branches of the Great Northern and the Minneapolis, St. Paul & Sault Ste. Marie in North Dakota. During the winter these parties will be moved to the lines of the Chicago, Rock Island & Pacific in Kansas, Oklahoma, and Texas. In the Pacific district, the Western Pacific and the Great Northern in Montana are now under survey. It is expected that the work upon the Western Pacific can be completed without interruption, but with the advent of winter the parties now engaged in Montana will be transferred to the Southern Pacific between El Paso and Los Angeles. When the Western Pacific is completed work will be begun upon the Atchison, Topeka & Santa Fe in Arizona.

The 8 parties now at work in each district cover an aggregate of from 1,500 to 1,700 miles per month. It is believed that these same parties, by reason of increase in efficiency with experience, and through the development of new methods, will in the not distant future be able to cover an appreciably increased mileage. It seems advisable not to increase the present force until methods of computing and assembling have been so far perfected that the result of these surveys can be placed upon the assembly sheets as fast as they are made. Beginning about January 1 next, the most economical conduct of this work will probably require the increase of these field parties to from 16 to 20 in each district. The present general organization should be able to support 20 field parties, and it is evident that cost decreases in proportion as surveying parties can be multiplied without increase in overhead expenses.

The preparation of inventories of telegraph and telephone lines has also been begun.

ACCOUNTING.

At the head of the accounting subdivision is a supervisor of accounts, to whom a district accountant having immediate charge of the accounting work in each district reports.

The act requires the Commission to ascertain and report in detail the original cost to date of each piece of property. About the time that engineering work was begun in the field, accountants were put to work upon the accounts of the railroads selected for initial valuation in the various districts, with instructions to obtain, as far as possible, all the facts of an accounting nature called for by the act. Final reports upon the Texas Midland and the New Orleans, Texas & Mexico have been received. Work upon the other three roads has not been completed.

The Commission has not as yet been able to examine these reports with sufficient care to form a final opinion, but they seem to show that the attempt to "report in detail as to each piece of property" the original cost to date, has involved an expenditure out of all proportion to the value of the results. The Commission is giving careful attention to the accounting branch of its valuation work, and will later report to the Congress its conclusions.

LAND.

At the head of this subdivision is a supervisor of land appraisals who has under him a land attorney in each of the five districts. The organization also includes an assistant attorney and land appraisers in each district.

Up to the present time the effort of this subdivision has been partly directed to determining the original cost of the right of way and ascertaining what lands have been obtained by gift or donation. Deeds have been examined for the purpose of noting any conditions which may have affected the original cost.

The land appraisers are also gathering data for the determination of the value of the land, such as appraisals for taxation purposes, sales of adjoining lands and lands similarly situated, and the opinions of persons in the locality believed to be competent to express such opinion.

RECOMMENDATIONS.

The pressing need of adequate quarters for the housing in one building of all the employees connected with the work of the Commission in Washington, for the reasons of economy and efficiency explained in our previous annual reports, in our judgment justifies us in again urging the construction by the Government, at as early a date as practicable, of a suitable building for this purpose, or that

the Commission be authorized to enter into a lease arrangement or contract covering a term of years for the construction of such a building by other parties. We are now under the necessity of renting outside buildings for the purposes of our work of valuing railroad properties and the inspection of locomotive boilers, and we are convinced that such an arrangement as above suggested would be much less expensive to the Government than the renting from year to year of necessary space.

For the reasons stated in our last and previous annual reports we renew our recommendations therein contained, to the effect—

That, for the purpose of uniformity and to prevent injustice, there should be provided by law one period—in our opinion three years—for the beginning of all actions relating to transportation charges subject to the act.

That there should be appropriate and adequate legislation upon the subject of control over railway capitalization.

That there should be legislation to make explicit and certain the authority of the Commission to examine all correspondence, files, indexes, and other papers and documents retained by carriers subject to the act.

That the penalty for violations of the hours-of-service act be changed to a fixed and definite sum, or that a minimum penalty of \$100 be established instead of the penalty of “not to exceed \$500,” as now provided.

That the use of steel cars in passenger-train service should be required, and that the use in passenger trains of wooden cars between or in front of steel cars should be prohibited.

STATEMENT OF APPROPRIATIONS AND AGGREGATE EXPENDITURES FOR THE INTERSTATE COMMERCE COMMISSION FOR THE FISCAL YEAR ENDED JUNE 30, 1914.

Sundry civil act June 23, 1913—For salaries of commissioners	\$70,000.00	
For salary of secretary	5,000.00	
		\$75,000.00
Sundry civil act June 23, 1913—For all other authorized expenditures necessary in the execution of laws to regulate commerce ..		950,000.00
Sundry civil act June 23, 1913—To further enable the Interstate Commerce Commission to enforce compliance with section 20 of the act to regulate commerce as amended by the act approved June 29, 1906, including the employment of necessary special agents or examiners		300,000.00
Sundry civil act June 23, 1913—For the payment of all authorized expenditures under the provisions of the act of Feb. 17, 1911, “to promote the safety of employees and travelers upon railroads by compelling common carriers engaged in interstate commerce to equip their locomotives with safe and suitable boilers and appurtenances thereto”		220,000.00

Sundry civil act June 23, 1913—To enable the Interstate Commerce Commission to keep informed regarding compliance with acts to promote the safety of employees and travelers upon railroads, including the employment of inspectors.....	\$150,000.00
Deficiency act Oct. 22, 1913—To enable the Interstate Commerce Commission to investigate in regard to the use and necessity for block-signal systems and appliances for the automatic control of railway trains.....	25,000.00
Deficiency act Oct. 22, 1913—Deficiency act May 25, 1914—To enable the Interstate Commerce Commission to carry out the objects of the act approved Mar. 1, 1913, providing for a valuation of the several classes of property of carriers.....	489,627.09
Total.....	<u>2,209,627.09</u>

Amounts expended under appropriations for the fiscal year ended June 30, 1914:

As salaries to commissioners and secretary.....	\$69,944.44
All other authorized expenditures.....	926,932.74
Examination of accounts, act approved June 29, 1906.....	295,520.22
Locomotive-boiler inspection, act approved Feb. 17, 1911.....	202,326.23
Safety appliance.....	134,274.83
Block signal and train control.....	9,019.49
Valuation.....	456,565.32
	<u>2,094,583.27</u>

Unexpended balance of appropriations June 30, 1914:

Salary of commissioners.....	5,055.56
All other authorized expenditures.....	23,066.60
Examination of accounts, act approved June 29, 1906.....	4,480.44
Locomotive-boiler inspection, act approved Feb. 17, 1911.....	17,673.77
Safety appliance.....	15,725.17
Block signal and train control.....	15,980.51
Valuation.....	33,061.77
	<u>115,043.82</u>
Total.....	<u>2,209,627.09</u>

As heretofore stated, a detailed statement showing the names of employees and expenditures for the fiscal year ended June 30, 1914, constitutes Part II of this report.

All of which is respectfully submitted.

JAMES S. HARLAN
 JUDSON C. CLEMENTS
 EDGAR E. CLARK
 CHARLES C. MCCORD
 BALTHASAR H. MEYER
 HENRY C. HALL
 WINTHROP M. DANIELS

APPENDIX A.

INDICTMENTS RETURNED AND CASES CONCLUDED.

SUMMARY OF INDICTMENTS RETURNED BETWEEN DECEMBER 1, 1913, AND NOVEMBER 1, 1914, FOR VIOLATIONS OF THE ACT TO REGULATE COMMERCE AND THE ELKINS ACT.

SUMMARY OF CASES, ARISING FROM VIOLATIONS OF ABOVE ACTS, CONCLUDED BETWEEN DECEMBER 1, 1913, AND NOVEMBER 1, 1914, AND FINES ASSESSED.

SUMMARY OF INDICTMENTS RETURNED BETWEEN DECEMBER 1,
1913, AND NOVEMBER 1, 1914.

1. *United States v. Sidney J. Adler* (district court, southern New York). January 27, 1914, indictment charging attempted false billing (2 counts).
2. *United States v. Alabama Great Southern Railway Co.* (district court, northern Alabama). March 14, 1914, indictment charging the granting of concessions (10 counts).
3. *United States v. Alabama Great Southern Railway Co.* (district court, northern Alabama). March 14, 1914, indictment charging failure strictly to observe tariff rates.
4. *United States v. Ann Arbor Railroad Co.* (district court, western Michigan). March 12, 1914, indictment charging granting of concessions to the Saginaw Beef Co. (10 counts).
5. *United States v. Morris Biederman* (district court, eastern Missouri). April 10, 1914, indictment for presenting false claims (5 counts).
6. *United States v. L. D. Block & Co.* (district court, southern New York). January 27, 1914, indictment charging attempted false billing (2 counts).
7. *United States v. Leonard J. Botting and Simon Lewie, trading as Chas. Broadway Rouse* (district court, southern New York). December 19, 1913, indictment charging attempted false billing (2 counts).
8. *United States v. W. C. Brown, John Carstensen, R. M. Huddleston, Lake Shore & Michigan Southern Railway Co., Big Four Railway Co., Chicago, Indiana & Southern Railway Co., Thos. J. O'Gara, Wm. A. Brewerton, and O'Gara Coal Co.* (district court, northern Illinois). July 31, 1914, indictment charging conspiracy to violate Elkins Act (2 counts).
9. *United States v. Roy A. Campbell* (district court, southern Texas). October 12, 1914, indictment charging the accepting and receiving a concession (10 counts).
10. *United States v. Chicago & Northwestern Railway Co.* (district court, northern Illinois). January 31, 1914, indictment charging the granting of rebates to David Rutter & Co. (6 counts).
11. *United States v. Orton Collins* (district court, eastern Wisconsin). April 16, 1914, indictment for presentation of false claims in connection with shipments made by Wisconsin Auto Sales Co. (1 count).
12. *United States v. C. Connor and Geo. Nordenholt* (district court, southern New York). March 7, 1914, indictment charging false billing.
13. *United States v. Louis Camesa, trading as Camesa Bros.* (district court, southern New York). December 12, 1913, indictment charging false billing (2 counts).
14. *United States v. Austin Corbin 2d* (district court, southern New York). January 13, 1914, indictment for accepting concessions from Spokane International Railway Co. (17 counts).
15. *United States v. Davidson Bros. Co.* (district court, eastern Missouri). April 10, 1914, indictment for presenting false claims (5 counts).
16. *United States v. Delaware, Lackawanna & Western Coal Co.* (district court, western New York). July 13, 1914, indictment charging the receiving of concessions from the D., L. & W. R. R. Co., in the nature of rental of trestles at nominal rental (5 counts).

17. *United States v. Delaware, Lackawanna & Western Railroad Co.* (district court, western New York). July 13, 1914, indictment charging the granting of concessions to the D., L. & W. Coal Co., by leasing of valuable trestle property at nominal rental (5 counts).

18. *United States v. Eagle Fur Cap Co.* (district court, southern New York). February 10, 1914, indictment charging attempted false billing.

19. *United States v. D. L. Flory* (district court, eastern Virginia). April 7, 1914, indictment charging false billing.

20. *United States v. Joseph Fybush*, trading as Fybush & Co. (district court, southern New York). December 1, 1913, indictment charging false billing (2 counts).

21. *United States v. Gamble-Robinson Commission Co.* (district court, Minnesota). October 8, 1914, indictment for presenting false claims to C., St. P., M. & O. Ry. Co. (5 counts).

22. *United States v. Albert Hockheimer & Co.* (district court, southern New York). January 20, 1914, indictment charging attempted false billing (2 counts).

23. *United States v. Illinois Central Railroad Co.* (district court, eastern Illinois). July 17, 1914, indictment for granting switching service at New Orleans on import shipment of bananas without tariff authority.

24. *United States v. Lake Shore & Michigan Southern Railway Co., Big Four Railway Co., Chicago, Indiana & Southern Railway Co., W. C. Brown, John Carstensen, and R. M. Huddleston* (district court, northern Illinois). July 31, 1914, indictment charging the granting of concessions to O'Gara Coal Co. (199 counts).

25. *United States v. Lehigh & Hudson River Railway Co. and Morris Rutherford*, vice president (district court, New Jersey). February 10, 1914, indictment charging acceptance of concessions on fuel coal (10 counts).

26. *United States v. Robert B. Loudon, jr.* (district court, southern Iowa). October 27, 1914, indictment for false billing (7 counts).

27. *United States v. Martin Fertilizer Co.* (district court, eastern Virginia). April 7, 1914, indictment charging false billing (12 counts).

28. *United States v. John D. Morrissey* (district court, eastern Washington). May 21, 1914, indictment charging violation of Elkins Act (1 count).

29. *United States v. Mark P. Miller Milling Co. and Mark P. Miller*, president (district court, Idaho). May 19, 1914, indictment charging false billing (4 counts).

30. *United States v. John Mirenberg* (district court, southern New York). December 30, 1913, indictment charging false billing (2 counts).

31. *United States v. New Orleans & Northeastern Railroad Co.* (district court, eastern Louisiana). July 18, 1914, indictment charging failure to observe switching tariffs at New Orleans (10 counts).

32. *United States v. Northern Central Railway Co.* (district court, western New York). July 13, 1914, indictment charging the granting of concessions to the Mineral Railroad & Mining Co. by failure to collect royalties (50 counts).

33. *United States v. Opalescent Bent Glass Co.* (district court, southern New York). December 19, 1913, indictment charging false billing (2 counts).

34. *United States v. O'Gara Coal Co., Thomas J. O'Gara, and William A. Brewerton* (district court, northern Illinois). July 31, 1914, indictment charging the receiving of concessions from the Lake Shore & Michigan Southern Railway Co., Big Four Railway Co., and Chicago, Indiana & Southern Railway Co. (190 counts).

35. *United States v. Potlatch Lumber Co. and Joseph J. Cunningham* (district court, eastern Washington). May 21, 1914, indictment charging false billing (10 counts).

36. *United States v. Potlatch Lumber Co. and Joseph J. Lohrenz* (district court, eastern Washington). May 21, 1914, indictment charging false billing (5 counts).

37. *United States v. Pennsylvania Railroad Co.* (district court, western New York). July 13, 1914, indictment charging violation of the commodities clause of the act by carrying coal for Susquehanna Coal Co., the carrier owning the coal company and its product (25 counts).

38. *United States v. Pittsburgh, Cincinnati, Chicago & St. Louis Ry. Co.* (district court, northern Illinois). January 31, 1914, indictment charging the granting of rebates to B. A. Eckhart Milling Co. (12 counts).

39. *United States v. Pittsburgh, Cincinnati, Chicago & St. Louis Ry. Co.* (district court, northern Illinois). January 31, 1914, indictment for granting rebates to W. H. Merritt & Co. (5 counts).

40. *United States v. Pennsylvania Co.* (district court, northern Illinois). January 31, 1914, indictment charging the granting of rebates to W. H. Merritt & Co. (5 counts).

41. *United States v. Frank Rogers and John Ridzewski* (district court, western Michigan). February 28, 1914, indictment charging violation of the act by obtaining and using pass (1 count).

42. *United States v. Southern Texas Truck Growers' Association and Roy A. Campbell* (district court, southern Texas). October 12, 1914, indictment for securing concessions (30 counts).

43. *United States v. Spokane International Railway Co. and Geo. H. Martin*, general agent (district court, eastern Washington). January 13, 1914, indictment charging granting concessions to Austin Corbin 2d (17 counts).

44. *United States v. Louis Seligman*, trading as American Bud Co. (district court, southern New York). December 12, 1913, indictment charging false billing (2 counts).

45. *United States v. Solar Light Co.* (district court, southern New York). January 27, 1914, indictment charging false billing (2 counts).

46. *United States v. Stock Yards Cotton & Linseed Oil Co. and H. G. Cherry*, manager (district court, Kansas). October 5, 1914, indictment charging the soliciting of information from carriers' agents concerning shipments of competitors.

47. *United States v. Southern Pacific Co.* (district court, southern California). May 25, 1914, indictment charging the granting of a concession to the Redlands Golden Orange Association by rental of a warehouse at a nominal sum.

48. *United States v. South Dakota Central Railway Co.* (district court, South Dakota). April 10, 1914, indictment for accepting concessions on fuel coal (10 counts).

49. *United States v. South Dakota Central Railway Co.* (district court, South Dakota). April 10, 1914, indictment for failure to strictly observe demurrage tariffs (10 counts).

50. *United States v. Peter Solow and Stanley Ridzewski* (district court, western Michigan). February 16, 1914, indictment charging violation of anti-pass section of the act (1 count).

51. *United States v. Star Manufacturing Co.* (district court, southern New York). January 16, 1914, indictment charging false billing (2 counts).

52. *United States v. Swift & Co.* (district court, northern Illinois). January 31, 1914, indictment for receiving concessions from the Ann Arbor Railroad Co. (60 counts).

53. *United States v. Saginaw Beef Co.* (district court, western Michigan). March 12, 1914, indictment for receiving concessions from the Ann Arbor Railroad Co. (10 counts).

54. United States *v.* Tower Manufacturing & Novelty Co. (district court, southern New York). December 5, 1913, indictment charging false billing (2 counts).

55. United States *v.* Herbert Taggessell (district court, Oregon). August 22, 1914, indictment for procuring interstate pass for persons not lawfully entitled thereto (1 count).

56. United States *v.* Washington, Idaho & Montana Railway Co. and John D. Morrissey, superintendent (district court, eastern Washington). May 21, 1914, indictment for granting free transportation of property (3 counts).

57. United States *v.* The Will & Baumer Co. (district court, southern New York). January 15, 1914, indictment charging false billing (2 counts).

58. United States *v.* Wisconsin Auto Sales Co. (district court, eastern Wisconsin). April 16, 1914, indictment charging the presentation of false claims (1 count).

**SUMMARY OF CASES CONCLUDED BETWEEN DECEMBER 1, 1913,
AND NOVEMBER 1, 1914.**

1. *United States v. Adams Express Co.* (district court, western New York). Indictment for granting rebates under guise of allowance to cover drayage performed by shipper. January 10, 1914, plea of *nolo contendere* and fine of \$500 imposed.

2. *United States v. American Express Co.* (district court, western New York). Indictment for collecting more than published rates. January 10, 1914, plea of *nolo contendere* and fine of \$500 imposed.

3. *United States v. Sidney J. Adler* (district court, southern New York). Indictment charging attempted false billing. January 27, 1914, plea of guilty entered and fine of \$250 imposed.

4. *United States v. Adams Express Co.* (district court, southern Ohio). Indictment for collecting more than published rate. January 17, 1914, plea of *nolo contendere* and fine of \$1,000 imposed.

5. *United States v. Ann Arbor Railroad Co.* (district court, western Michigan). Indictment for granting concessions to Saginaw Beef Co. April 28, 1914, plea of guilty entered and fine of \$8,000 imposed.

6. *United States v. Alabama Great Southern Railway Co.* (district court, northern Alabama). Indictment for granting concessions. May 16, 1914, plea of guilty entered and fine of \$5,000 imposed.

7. *United States v. Alabama Great Southern Railway Co.* (district court, northern Alabama). Indictment for failure strictly to observe tariff rates. May 16, 1914, *nolle prosequi* entered.

8. *United States v. L. D. Block & Co.* (district court, southern New York). Indictment for attempted false billing. January 27, 1914, plea of guilty entered and fine of \$100 imposed.

9. *United States v. Leonard J. Botting and Simon Lewie, trading as Charles Broadway Rouse* (district court, southern New York). Indictment for false billing. December 19, 1913, plea of guilty entered and fine of \$300 imposed.

10. *United States v. Louis Camesa, trading as Camesa Bros.* (district court, southern New York). Indictment for false billing. December 12, 1913, plea of guilty entered and fine of \$200 imposed.

11. *United States v. C. Conner and George Nordenholt* (district court, southern New York). Indictment for false billing. March 7, 1914, plea of guilty entered by Nordenholt and fine of \$1,000 imposed. Conner not yet located.

12. *United States v. Columbia Amusement Co., R. K. Hynicka, secretary, and Cleveland, Cincinnati, Chicago & St. Louis Railway Co.* (district court, northern Illinois). Indictment for conspiracy to violate act to regulate commerce. March 18, 1914, plea of *nolo contendere* by Columbia Amusement Co. and Hynicka and fine of \$7,500 imposed. (Case against carrier previously disposed of.)

13. *United States v. S. B. Cox* (district court, eastern Texas). Indictment for making false entries in records of St. Louis Southwestern Railway Co. March 18, 1914, plea of guilty entered and fine of \$2,000 imposed.

14. *United States v. Cleveland, Cincinnati, Chicago & St. Louis Railway Co. and Chicago, Indiana & Southern Railway Co.* (district court, eastern Illinois). Indictment for granting concessions to O'Gara Coal Co. May 14, 1914, pleas of

guilty entered and fines of \$3,000 against the Cleveland, Cincinnati, Chicago & St. Louis Railway Co., and \$6,000 against Chicago, Indiana & Southern Railway Co., imposed. Total, \$9,000.

15. *United States v. Cleveland, Cincinnati, Chicago & St. Louis Railway Co.* (district court, eastern Illinois). Indictment under the Elkins Act for granting discrimination. May 14, 1914, plea of guilty entered and fine of \$3,000 imposed.

16. *United States v. Cleveland, Cincinnati, Chicago & St. Louis Railway Co., and Grand Trunk Railway Co. of Canada* (district court, eastern Illinois). Indictment for conspiracy to grant concessions. May 19, 1914, plea of guilty entered on behalf of O'Gara Coal Co., and fine of \$2,000 imposed.

17. *United States v. Cleveland, Cincinnati, Chicago & St. Louis Railway Co.; Chicago, Indiana & Southern Railway Co.; O'Gara Coal Co.; and Grand Trunk Railway Co.* (district court, eastern Illinois). Indictment for conspiracy to grant concessions to O'Gara Coal Co. May 14, 1914, plea of guilty on behalf of Cleveland, Cincinnati, Chicago & St. Louis Railway Co., and Chicago, Indiana & Southern Railway Co., and fine of \$1,500 each imposed. Total, \$3,000.

18. *United States v. Austin Corbin, 2d* (district court, eastern Washington). Indictment for accepting concessions from Spokane International Railway Co. May 23, 1914, plea of guilty and fine of \$5,000 imposed.

19. *United States v. Delaware, Lackawanna & Western Railroad Co.* (district court, western New York). Indictment for violation of commodities clause of the act. March 18, 1912, verdict of guilty and fine of \$2,000 imposed. Affirmed by Supreme Court of the United States.

20. *United States v. Delaware & Hudson Co.* (district court, northern New York). Indictment for violation of commodities clause of the act. February 12, 1914, pleas of nolo contendere and fine of \$1,500 imposed.

21. *United States v. A. L. Dennis Salt & Lumber Co.* (district court, western Michigan). Indictment for accepting rebates in connection with transit shipments of lumber. June 29, 1914, plea of guilty entered and fine of \$1,000 imposed.

22. *United States v. A. L. Dennis Salt & Lumber Co.* (district court, western Michigan). Indictment for false billing in connection with transit shipments of lumber. June 29, 1914, nolle prosequi entered.

23. *United States v. Dennis Lumber Co.* (district court, western Michigan). Indictment for accepting rebates in connection with transit shipments of lumber. June 29, 1914, plea of guilty entered and fine of \$2,000 imposed.

24. *United States v. Dennis Lumber Co.* (district court, western Michigan). Indictment for false billing in connection with transit shipments of lumber. June 29, 1914, nolle prosequi entered.

25. *United States v. Eagle Fur Cap Co.* (district court, southern New York). Indictment for attempted false billing. February 11, 1914, plea of guilty entered and fine of \$150 imposed.

26. *United States v. Erie Railroad Co. and W. S. Cowie*, general eastern freight agent (district court, New Jersey). Indictment for granting concessions to Marden, Orth & Hastings. April 2, 1914, verdict of guilty as to Erie Railroad (fine not yet imposed) and acquittal as to Cowie.

27. *United States v. G. H. Evans* (district court, eastern Tennessee). Indictment for violation of section 10 of the act in connection with substitution of shipments of lumber in transit. May 18, 1914, plea of guilty entered and fine of \$500 imposed.

28. *United States v. Joseph Fybush*, trading as Fybush & Co. (district court, southern New York). Indictment for false billing. December 1, 1913, plea of guilty entered and fine of \$400 imposed.

29. *United States v. D. L. Flory* (district court, eastern Virginia). Indictment for false billing. June, 1914, plea of *nolo contendere* and fine of \$100 imposed.

30. *United States v. Grand Trunk Western Ry. Co.* (district court, southern Ohio). Indictment for obtaining concessions on fuel coal. December 13, 1913, plea of *nolo contendere* and fine of \$5,000 imposed.

31. *United States v. Grand Trunk Railway Co. of Canada*; Cleveland, Cincinnati, Chicago & St. Louis Railway Co.; and Chicago, Indiana & Southern Railway Co. (district court, eastern Illinois). Indictment for conspiracy to grant and give concessions out of published rate to O'Gara Coal Co. March 17, 1914, plea of *nolo contendere* and fine of \$2,500 imposed against Grand Trunk Railway Co. of Canada.

32. *United States v. Grand Trunk Railway Co. and O'Gara Coal Co.* (district court, eastern Illinois). Indictment for accepting and receiving concessions from the Cleveland, Cincinnati, Chicago & St. Louis Railway Co. and Chicago, Indiana & Southern Railway Co. March 17, 1914, Grand Trunk Railway Co. plea of *nolo contendere* and fine of \$2,500 imposed.

33. *United States v. Albert Hockheimer & Co.* (district court, southern New York). Indictment for attempted false billing. January 20, 1914, plea of guilty entered and fine of \$250 imposed.

34. *United States v. Hocking Valley Railway Co.* (district court, northern Ohio). Indictment for discrimination in favor of Sunday Creek Coal Co. by unlawful extension of credit. June 11, 1912, plea of *nolo contendere* and fine of \$42,000 imposed. February 3, 1914, decision affirmed by circuit court of appeals.

35. *United States v. Keystone Elevator & Warehouse Co. and John F. McLaughlin* (district court, eastern Pennsylvania). Indictment for violation of section 10 of act in permitting L. F. Miller & Sons to make false report of weights. September, 1914, *nolle prosequi* entered.

36. *United States v. Lehigh & Hudson River Railway Co. and Morris Rutherford*, vice president (district court, New Jersey). Indictment for receiving concessions on fuel coal. May 9, 1914, plea of guilty and fine of \$10,000 imposed against corporation. Against Rutherford *nolle prosequi* entered.

37. *United States v. Lehigh Valley Railroad Co.* (district court, western New York). Indictment for granting concessions to Yates-Lehigh Coal Co. in connection with lease of certain land for coal yard. Verdict of acquittal.

38. *United States v. Lumber Products Co.* (district court, eastern Tennessee). Indictment for violation of section 10 of the act in connection with transit shipments. May 18, 1914, plea of guilty entered and fine of \$500 imposed.

39. *United States v. John Mirenberg* (district court, southern New York). Indictment for false billing. December 30, 1913, plea of guilty and fine of \$100 imposed.

40. *United States v. Martin Fertilizer Co.* (district court, eastern Virginia). Indictment for false billing. June, 1914, plea of guilty entered and fine of \$1,400 imposed.

41. *United States v. Frank G. Miller* (district court, northern Ohio). Indictment for inducing an agent to discriminate in his favor by issuing bills of lading prior to receipt of shipment. June, 1914, plea of guilty entered and fine of \$300 imposed.

42. *United States v. Glen B. Miller* (district court, northern Ohio). Indictment for making false entry in the records of the Erie Railroad. June, 1914, plea of guilty entered; sentence suspended.

43. *United States v. Harvie C. Miller, J. Elsie Miller, Morris F. Miller, Thos. M. Sloan, and Jno. F. McLaughlin* (district court, eastern Pennsylvania). Indictment for conspiracy. September, 1914, nolle prosequi entered.

44. *United States v. Harvie C. Miller, J. Elsie Miller, Morris F. Miller, and Thos. M. Sloan* (district court, eastern Pennsylvania). Indictment for accepting rebates. September, 1914, nolle prosequi entered.

45. *United States v. John D. Morrissey* (district court, eastern Washington). Indictment for violation of Elkins Act. Nolle prosequi entered.

46. *United States v. O'Gara Coal Co.* (district court, eastern Illinois). Indictment for accepting and receiving concessions from Cleveland, Cincinnati, Chicago & St. Louis Railway Co. and Chicago, Indiana & Southern Railway Co. May 19, 1914, plea of guilty on behalf of O'Gara Coal Co. and fine of \$3,000 imposed.

47. *United States v. Opalescent Bent Glass Co.* (district court, southern New York). Indictment for false billing. December 19, 1913, plea of guilty entered and fine of \$350 imposed.

48. *United States v. Pennsylvania Railroad Co., Harvie C. Miller, and John F. McLaughlin* (district court, eastern Pennsylvania). Indictment for failure to observe elevation and storage charges. September 15, 1914, pleas of guilty entered and fine of \$4,000 against each defendant imposed; total, \$12,000.

49. *United States v. Pennsylvania Railroad Co., Harvie C. Miller, and John F. McLaughlin* (district court, eastern Pennsylvania). Indictment for granting rebates. September 15, 1914, nolle prosequi entered.

50. *United States v. Pennsylvania Railroad Co.* (district court, eastern Pennsylvania). Indictment for failure to observe demurrage tariffs. September 15, 1914, nolle prosequi entered.

51. *United States v. Potlatch Lumber Co. and Joseph B. Cunningham* (district court, eastern Washington). Indictment for false billing. October 1, 1914, plea of guilty entered by lumber company and fine of \$2,000 imposed. Indictment against Cunningham still pending.

52. *United States v. Potlatch Lumber Co. and Joseph J. Lohrenz* (district court, eastern Washington). Indictment for false billing. October 1, 1914, plea of guilty entered by lumber company and fine of \$1,000 imposed. Indictment against Lohrenz still pending.

53. *United States v. Harvey J. Rhein, James E. Fennessey, the Henck Opera House Co., the Empire Circuit Co., and the Cleveland, Cincinnati, Chicago & St. Louis Railway Co.* (district court, northern Illinois). Indictment for conspiracy to violate passenger tariffs. March, 1914, plea of guilty by Fennessey and fine of \$3,500 imposed. Case against carriers previously disposed of.

54. *United States v. Frank Rodgers and John Ridzewski* (district court, western Michigan). Indictment for violation of pass provisions of the act. March 3, 1914, plea of guilty entered and fine of \$25 each imposed. Total, \$50.

55. *United States v. Roberts & Hammer* (district court, western Tennessee). Indictment for receiving concessions in connection with transit shipments of grain. May 30, 1914, plea of guilty and fine of \$180 imposed.

56. *United States v. Louis Seligman, trading as American Bud Co.* (district court, southern New York). Indictment for false billing. December 12, 1913, plea of guilty entered and fine of \$300 imposed.

57. *United States v. Solar Light Co.* (district court, southern New York). Indictment for attempted false billing. January 27, 1914, plea of guilty entered and fine of \$25 imposed.

58. *United States v. Star Fur Manufacturing Co.* (district court, southern New York). Indictment for false billing. February 19, 1914, plea of guilty entered and fine of \$200 imposed.

59. *United States v. Sunday Creek Coal Co.* (district court, northern Ohio). Indictment for accepting rebates from Hocking Valley Railroad Co. June 11, 1912, plea of *nolo contendere* and fine of \$20,000 imposed. February 3, 1914, affirmed by circuit court of appeals.

60. *United States v. Seaboard Air Line Railway* (district court, southern Georgia). Indictment for receiving concessions in connection with shipments of fuel coal. November 24, 1913, plea of guilty entered and fine of \$2,000 imposed. (This case was not reported until February 26, 1914, and not included in 1913 report.)

61. *United States v. St. Louis & San Francisco Railroad Co.* (district court, eastern Missouri). Indictment for charging more than lawful rate. April 3, 1914, plea of guilty entered and fine of \$500 imposed.

62. *United States v. Saginaw Beef Co.* (district court, western Michigan). Indictment for receiving concessions from Ann Arbor Railroad Co. April 28, 1914, plea of guilty entered and fine of \$8,000 imposed.

63. *United States v. Peter Solow and Stanley Ridzewski and wife* (district court, western Michigan). Indictment for unlawful use of interstate pass. March 3, 1914, plea of guilty and fine of \$25 each against Peter Solow and Stanley Ridzewski and \$1 against Mrs. Ridzewski. Total, \$51.

64. *United States v. Spokane International Railway Co. and George H. Martin*, general agent (district court, eastern Washington). Indictment for granting concessions to Austin Corbin 2d. May 23, 1914, plea of guilty as to carrier was entered and fine of \$5,000 was imposed. As to Martin, *nolle prosequi* entered.

65. *United States v. Southern Pacific Co.* (district court, southern California). Indictment for granting concession to shipper by means of nominal rental of storage house. September 28, 1914, plea of guilty entered and fine of \$1,000 imposed.

66. *United States v. South Dakota Central Railway Co.* (district court, South Dakota). Indictment for failure to strictly observe demurrage tariffs. September 28, 1914, plea of guilty entered and fine of \$1,000 imposed.

67. *United States v. South Dakota Central Railway Co.* (district court, South Dakota). Indictment for soliciting and accepting concessions on fuel coal. September 28, 1914, plea of guilty entered and fine of \$1,000 imposed.

68. *United States v. Tower Manufacturing & Novelty Co.* (district court, southern New York). Indictment for false billing. December 5, 1913, plea of guilty entered and fine of \$300 imposed.

69. *United States v. Herbert Taggessell* (district court, Oregon). Indictment for procuring interstate pass for person not lawfully entitled thereto. September 8, 1914, plea of guilty entered and fine of \$100 imposed.

70. *United States v. Vandalia Railroad Co.* (district court, eastern Illinois). Indictment for granting rebates to Lumaghi Coal Co., by way of loans, in consideration of the routing of traffic via its line. May 20, 1914, verdict of guilty. July 6, 1914, motion for new trial overruled and fine of \$2,000 imposed.

71. *United States v. Valley City Lumber Co.* (district court, western Michigan). Indictment for accepting rebates in connection with transit shipments of lumber. June 29, 1914, plea of guilty entered and fine of \$1,000 imposed.

72. *United States v. Valley City Lumber Co.* (district court, western Michigan). Indictment for false billing in connection with transit shipments of lumber. June 29, 1914, *nolle prosequi* entered.

73. *United States v. Van Keulen & Winchester Lumber Co.* (district court, western Michigan). Indictment for accepting rebates in connection with transit

shipments of lumber. June 29, 1914, plea of guilty entered and fine of \$1,000 imposed.

74. *United States v. Van Keulen & Winchester Lumber Co.* (district court, western Michigan). Indictment for false billing in connection with transit shipment of lumber. June 29, 1914, nolle prosequi entered.

75. *United States v. Will & Baumer Co.* (district court, southern New York). Indictment for false billing. January 16, 1914, plea of guilty entered and fine of \$400 imposed.

76. *United States v. Wichita Falls & Northwestern Railway Co.* (district court, western Oklahoma). Indictment for granting a concession to the Kansas Bithulithic Co. February 26, 1914, plea of guilty entered and fine of \$1,000 imposed.

77. *United States v. Waters-Pierce Oil Co.* (district court, western Louisiana). Indictment for receiving concessions on shipments of oil. March 12, 1914, verdict of guilty and fine of \$14,000 imposed.

78. *United States v. Aaron Wheeler* (district court, northern Alabama). Indictment for unlawful use of pass from Birmingham to Memphis. Plea of guilty entered. Sentenced to 13 months in jail.

79. *United States v. Washington, Idaho & Montana Railway Co., and John B. Morrissey*, superintendent (district court, eastern Washington). Indictment for granting free transportation of property in interstate commerce. October 1, 1914, plea of guilty entered and fine of \$1,000 against each defendant imposed. Total, \$2,000.

80. *United States v. J. W. Warner and H. P. Newton*, trading as Warner-Newton Lumber Co. (district court, western Michigan). Indictment for accepting rebates in connection with transit shipments. October 10, 1914, H. P. Newton pleaded guilty to one count and fine of \$1,000 was imposed. As to J. W. Warner, nolle prosequi entered.

APPENDIX B.

SUMMARY OF CASES IN SUPREME AND DISTRICT COURTS.

SUMMARY OF CASES DECIDED IN THE SUPREME COURT AND
IMPORT OF EACH DECISION.

SUMMARY OF CASES PENDING IN THE SUPREME COURT.

SUMMARY OF CASES DECIDED IN THE DISTRICT COURTS AND
IMPORT OF EACH DECISION.

SUMMARY OF CASES PENDING IN THE DISTRICT COURTS.

SUMMARY OF CASES DECIDED IN COURTS OF THE DISTRICT
OF COLUMBIA AND IMPORT OF EACH DECISION.

SUMMARY OF CASES PENDING IN COURTS OF THE DISTRICT
OF COLUMBIA.

SUMMARY OF CASES DECIDED BY SUPREME COURT OF THE
UNITED STATES AND IMPORT OF EACH DECISION.

Atchison, Topeka & Santa Fe Ry. Co. v. United States.

Decree of Commerce Court dismissing petition and sustaining Commission's orders, affirmed (232 U. S., 199).

This case involves two orders of the Commission, one reducing the rate on pre-cooled and pre-iced fruit from points in southern California to eastern destinations, and the other requiring the carriers to maintain tariffs permitting pre-icing of their shipments by the shippers.

Southern Pacific Co. et al. v. United States et al.

Appeal by carriers from decree of Commerce Court dismissing petition and sustaining Commission's order, dismissed on motion of carriers (232 U. S., 736).

This case involves an order of the Commission prescribing reduced rates on rough green fir lumber and lath from points in Willamette Valley, Oregon, to San Francisco and other points in California.

Tap Line Cases;

United States et al. v. Louisiana & Pacific Ry. Co. et al.;

United States et al. v. Woodworth & Louisiana Central Ry. Co.;

United States et al. v. Mansfield Railway & Transportation Co. et al.; and

United States et al. v. Victoria, Fisher & Western R. R. Co. et al.

Decrees of Commerce Court annulling Commission's order, affirmed (234 U. S., 1).

These cases involve certain divisions of through rates demanded by tap lines and held by the Commission to be unlawful.

United States v. Butler County R. R. Co.

Decree of Commerce Court annulling Commission's order, affirmed (234 U. S., 29).

This case involves certain divisions of through rates demanded by the Butler County R. R. Co., a tap line, and held by the Commission to be unlawful.

Florida East Coast Ry. Co. v. United States.

Decree of Commerce Court denying injunction and sustaining Commission's order, reversed and cause remanded to proper district court with directions to enjoin the order (234 U. S., 167).

This case involves an order of the Commission reducing certain rates on citrus fruits and vegetables from gathering points in Florida to the basing point of Jacksonville when parts of through rates to points beyond Jacksonville in other States.

Los Angeles Switching Case;

Interstate Commerce Commission v. Atchison, Topeka & Santa Fe Ry. Co. et al.

Decree of Commerce Court enjoining Commission's order, reversed and cause remanded to proper district court with instructions to dismiss the petition (234 U. S., 294).

This case involves an order of the Commission requiring the carriers to cease and desist from exacting a charge of \$2.50 per car in addition to the through rate on traffic received or delivered on sidetracks in Los Angeles, California, where private industries are located.

Interstate Commerce Commission v. Southern Pacific Co.

Decree of Commerce Court enjoining Commission's order, reversed and cause remanded to proper district court with directions to dismiss the petition (234 U. S., 315).

Interstate Commerce Commission v. Southern Pacific Co.—Continued.

This case involves an order of the Commission requiring the carriers to cease and desist from exacting a charge of \$2.50 per car in addition to the through rate on traffic received or delivered on sidetracks in San Francisco, California, where private industries are located.

Houston, East & West Texas Ry Co. v. United States; and

Texas & Pacific Ry. Co. v. United States.

Decrees of Commerce Court dismissing both petitions and sustaining Commission's order, affirmed (234 U. S., 342).

These cases involve an order of the Commission requiring certain carriers to remove a discrimination between Shreveport, Louisiana, on the one hand, and Dallas and Houston, Texas, on the other, which results from the maintenance of rates on interstate traffic in certain territory which are greater than intrastate rates on like traffic in the same territory.

Intermountain Rate Cases;

United States et al. v. Atchison, Topeka & Santa Fe Ry. Co. et al.

Decree of Commerce Court enjoining Commission's order, reversed and cause remanded to proper district court with instructions to dismiss the petition (234 U. S., 476).

This case involves an order of the Commission granting in part and refusing in part relief from the long-and-short-haul rule of section 4 on traffic shipped from the East to points between the Missouri River and the Pacific coast.

United States et al. v. Union Pacific R. R. Co. et al.

Decree of Commerce Court enjoining Commission's order, reversed and cause remanded to proper district court with directions to dismiss the petition (234 U. S., 495).

This case involves an order of the Commission granting in certain respects relief from the long and short haul clause of section 4, but establishing for the transportation of westbound commodities a proportionate relation to be maintained between the lower rate for the longer haul and the higher rate for the shorter haul upon the basis of percentages which were fixed with reference to defined zones.

The Pipe Line Cases;

United States et al. v. Prairie Oil & Gas Co.;

United States et al. v. Uncle Sam Oil Co.;

United States et al. v. Benson and others, doing business under the name of The Tidewater Pipe Co.;

United States et al. v. Ohio Oil Co.;

United States et al. v. Standard Oil Co.; and

United States et al. v. Standard Oil Co. of Louisiana.

Decree of Commerce Court enjoining Commission's order reversed and cause remanded to the proper district court with instructions to dismiss the petitions, except as to the Uncle Sam Oil Co., as to which the decree of the Commerce Court was affirmed (234 U. S., 548).

These cases involve an order of the Commission requiring operators of pipe lines to file schedules of their rates and charges for the interstate transportation of oil by means of such pipe lines.

Pennsylvania R. R. Co. v. Interstate Commerce Commission et al.

Appeal by carrier from decree of Commerce Court dismissing petition and sustaining Commission's order, dismissed on motion of carrier on October 13, 1914 (not yet reported).

This case involves an order of the Commission requiring the carrier to cease and desist from a discrimination which results from certain rules of the Pennsylvania Railroad pertaining to the distribution of coal cars.

SUMMARY OF CASES PENDING IN SUPREME COURT OF THE UNITED STATES.

United States v. Louisville & Nashville R. R. Co.

Not yet argued.

This case involves the right of the Commission and its duly authorized agents and examiners to have access to and inspect and examine accounts, records, memoranda, correspondence, copies of correspondence and indexes thereto, made and kept by and for carriers subject to the act both before, on, and subsequent to August 28, 1906.

Louisville & Nashville R. R. Co. v. United States et al.

Not yet argued.

This case involves an order of the Commission granting in part and refusing in part relief from the long-and-short-haul rule of the fourth section on traffic shipped through Bowling Green, Ky., to Louisville, Ky., and Nashville, Tenn.

Pennsylvania Co. v. United States.

Not yet argued.

This case involves an order of the Commission requiring the Pennsylvania Co. to cease and desist from a discrimination which results from its refusal to afford to the Buffalo, Rochester & Pittsburgh Ry. Co. equal facilities for the interchange of traffic within the switching limits of the city of New Castle, Pa.

United States v. Eric R. R. Co.

Not yet argued.

This case involves the right of carriers subject to the act to issue or give an interstate free pass or free transportation to officers or employees of other carriers not subject to the act.

Henry E. Meeker, surviving partner of the firm of Meeker & Co., v. Lehigh Valley R. R. Co.; and

Henry E. Meeker v. Lehigh Valley R. R. Co.

Argued and submitted.

These cases involve orders of the Commission requiring the carrier to pay to Meeker certain sums of money as reparation or damages for having charged him unreasonable and unjustly discriminatory rates on coal shipped from the Wyoming region in Pennsylvania to Perth Amboy, N. J.

United States v. Louisville & Nashville R. R. Co.

Argued and submitted.

This case involves an order of the Commission requiring carriers to cease and desist from a discrimination which results from granting to shippers to and from Nashville what is known as a rebilling privilege and refusing to grant a similar privilege to shippers to and from Atlanta and other points in the State of Georgia.

Louisville & Nashville R. R. Co. v. United States et al.

Not yet argued.

This case involves an order of the Commission reducing rates on the Louisville & Nashville and Nashville, Chattanooga & St. Louis roads for the transportation of coal to Nashville, Tenn., and requiring the carriers to remove a discrimination in switching services at Nashville against coal originating on the Tennessee Central Railroad in favor of coal originating on their own lines.

**SUMMARY OF CASES DECIDED IN DISTRICT COURTS OF THE
UNITED STATES AND IMPORT OF EACH DECISION.**

Equitable Trust Co v. Wabash R. R. Co.,

Illinois Terminal R. R. Co. and Interstate Commerce Commission, Interveners.
(Eastern Dist. of Missouri, E. Div.)

Intervening petition of Illinois Terminal R. R. Co. dismissed on motion of Interstate Commerce Commission (Mar. 23, 1914). No appeal.

By its intervening petition, the Illinois Terminal R. R. Co. sought to restrain the Wabash Railroad from canceling divisions of through rates with it. The court sustained the motion of the Commission to dissolve the temporary injunction and dismissed the intervening petition of the Illinois Terminal R. R. Co.

Interstate Commerce Commission v. Frederick W. Ellis. (Northern Dist. of Illinois, E. Div.)

Respondent ordered by court to answer questions and furnish documentary evidence as prayed in petition (July 17, 1914). Question of appeal pending.

This suit was instituted by the Commission to compel Ellis, vice president of the Armour Car Lines, to testify and produce documentary evidence concerning transportation services rendered by the Armour Car Lines in connection with interstate shipments of packing house products.

Louisville & Nashville R. R. Co. v. United States et al. (Middle Dist. of Tennessee, Nashville Div.)

Motion for preliminary injunction denied and Commission's order sustained (Sept. 1, 1914). Appealed.

This case involves an order of the Commission reducing rates on the Louisville & Nashville and Nashville, Chattanooga & St. Louis roads for the transportation of coal to Nashville, Tenn., and requiring the carriers to remove a discrimination in switching services at Nashville against coal originating on the Tennessee Central Railroad in favor of coal originating on their own lines.

Pennsylvania Co. v. United States. (Eastern Dist. of Pennsylvania.)

Motion for injunction denied and Commission's order sustained (May 9, 1914). Appealed to Supreme Court.

This case involves an order of the Commission requiring the Pennsylvania Co. to cease and desist from a discrimination which results from its refusal to afford to the Buffalo, Rochester & Pittsburgh Ry. Co. equal facilities for the interchange of traffic within the switching limits of the city of New Castle, Pa.

United States v. Louisville & Nashville R. R. Co. (Western Dist. of Kentucky.)

Petition dismissed (212 Fed., 486) and appeal taken to Supreme Court.

This suit was instituted by the Commission to compel the carrier to give to the Commission and its duly authorized agents and examiners access to and opportunity to inspect and examine its accounts, records, memoranda, correspondence, copies of correspondence, and indexes thereto, made and kept by and for the carrier both before, on, and subsequent to August 28, 1906.

United States v. Nashville, Chattanooga & St. Louis Ry. (Middle Dist. of Tennessee, Nashville Div.)

Petition dismissed (Sept. 4, 1914). Matter of appeal pending.

This suit was instituted by the Commission to compel the carrier to allow special agents or examiners of the Commission to have access to and to inspect and examine the respondent's correspondence files and indexes thereto.

United States v. Erie Railroad. (Southern Dist. of New York.)

Petitions dismissed (213 Fed., 391) and appeals taken to Supreme Court.

These suits were instituted to restrain the Erie Railroad from giving free passes and free transportation to officers and agents of carriers not subject to the act.

St. Louis, Iron Mountain & Southern Ry. Co. et al. v. United States. (Eastern Dist. of Illinois.)

Injunction against enforcement of Commission's order granted as to the Iron Mountain and Cotton Belt roads (Sept. 10, 1914). Question of appeal pending.

This case involves an order of the Commission requiring the carriers to remove a discrimination against Metropolis, Ill., which results from charging for the transportation of logs and lumber from Tennessee, Alabama, and other points rates which are higher to Metropolis than to Cairo, Ill.

Louisville & Nashville R. R. Co. v. United States. (Western Dist. of Virginia.)

On motion for preliminary injunction the court reviewed the evidence and held that the carrier should first apply to the Commission for a rehearing if it wished to offer any evidence not introduced before the Commission and also that the carrier, if it desired to use the record of proceedings before the Commission must introduce in court the entire record and not parts only. No injunction granted. (Oct. 1, 1914.)

This case involves orders of the Commission (1) prohibiting an advance in coal and coke rates from the St. Charles and Appalachia districts in Virginia to the Ohio River and beyond, and (2) fixing a relation between the coal rates from the St. Charles and Appalachia districts on the one hand and from the Middlesboro-Jellico district on the other.

**SUMMARY OF CASES PENDING IN DISTRICT COURTS OF THE
UNITED STATES.**

Galveston, Harrisburg & San Antonio Ry. Co. et al. v. United States et al. (Southern Dist. of Texas.)

No hearing had.

This case involves an order of the Commission requiring certain carriers to remove discriminations which result (1) from the application of proportional rates which are greater to Port Aransas, Texas, than to the port of Galveston, Texas, on cotton shipped through those ports to foreign countries, and (2) from a refusal to issue through bills of lading on shipments which pass through Port Aransas while contemporaneously issuing through bills of lading on shipments which pass through Galveston.

Denver & Rio Grande R. R. Co. et al. v. United States et al. (Dist. of Colorado.)

No hearing had.

This case involves an order of the Commission reducing certain rates to Utah common points, including Salt Lake City, Provo, and Ogden, from Missouri River, Mississippi River, and Chicago territories, and in the opposite direction.

A motion for a preliminary injunction was denied by the Commerce Court; and upon the abolition of such court the case was transferred to this district court.

United States Pipe Line Co. v. United States et al. (Eastern Dist. of Pennsylvania.)

No hearing had.

This case involves an order of the Commission requiring petitioner to file schedules of its rates and charges, for the interstate transportation of oil by means of its pipe lines.

The case was transferred to this district court upon the abolition of the Commerce Court.

Louisville & Nashville R. R. Co. et al. v. United States et al. (Western Dist. of Kentucky.)

No hearing had.

This case involves an order of the Commission requiring the carriers to remove a discrimination which results from the application of proportional rates to points in the Southeast from the Ohio River, which are greater where the traffic reaches the river by way of certain lines of railway than where transportation to the river is over routes through Cook County, Illinois, junction points.

There was a final hearing in this case before the Commerce Court, but the case had not been decided at the time that court was abolished, whence it was transferred to this district court. The case may be transferred to the Northern Dist. of Illinois, Northern Div.

Southern Pacific Co. v. United States et al. (Northern Dist. of California.)

No hearing had.

This case involves an order of the Commission granting relief from the long-and-short-haul rule of the fourth section on traffic shipped through intermediate points between San Francisco, Cal., and Portland, Oreg., but fixing relations between the long-haul and short-haul points.

The case was transferred to this district court upon the abolition of the Commerce Court.

New York, New Haven & Hartford R. R. Co. v. United States et al. (Dist. of Connecticut.)

No hearing had.

This case involves an order of the Commission reducing commutation passenger fares applicable to transportation between Greenwich, Coscob, Riverside, Sound Beach, and Stamford, Connecticut, on the one hand, and New York City on the other.

Louisville & Nashville R. R. Co. v. United States. (Western Dist. of Virginia.)

No final hearing had.

This case involves orders of the Commission (1) prohibiting an advance in coal and coke rates from the St. Charles and Appalachia districts in Virginia to the Ohio River and beyond, and (2) fixing a relation between the coal rates from the St. Charles and Appalachia districts on the one hand and from the Middlesboro-Jellico district on the other.

United States v. Lehigh Valley R. R. Co. (So. Dist. of New York.)

No hearing had.

This is a suit under the Elkins Act to restrain the respondent from paying salaries and commissions to George W. Sheldon & Co. as import agents of that road.

Philadelphia & Reading R. R. Co. v. Interstate Commerce Commission. (Eastern Dist. of Pennsylvania.)

No hearing had.

This case involves an order of the Commission requiring the carrier to desist from an undue prejudice caused by the failure of the carrier to maintain to New Jersey for local consumption the same rates on cement from Evansville, Pa., in the Lehigh district, as are maintained from other points in such district.

Frederick M. Alger v. Duluth & Northern Minnesota Ry. Co. and Interstate Commerce Commission. (Dist. of Minnesota, Fifth Div.)

No hearing had.

This suit involves an order of the Commission reducing rates on pulp wood from Minnesota to Wisconsin and Michigan.

St. Louis, Iron Mountain & Southern Ry. Co. et al. v. United States. (Eastern Dist. of Illinois.)

Appeal under consideration to United States Supreme Court from decree of district court granting an interlocutory injunction as to the Iron Mountain and Cotton Belt roads.

This case involves an order of the Commission requiring the carriers to remove a discrimination against Metropolis, Ill., which results from charging for the transportation of logs and lumber from Tennessee, Alabama, and other points, to Metropolis rates which exceed those to Cairo, Ill., by more than 1 cent per 100 pounds.

Interstate Commerce Commission v. Frederick W. Ellis. (Northern Dis. of Illinois, E. Div.)

Question of appeal by Ellis under consideration from decree of district court requiring him to answer questions and furnish documentary evidence.

This case was instituted by the Commission to compel Ellis, vice president of the Armour Car Lines, to testify and produce documentary evidence concerning transportation services rendered by the Armour Car Lines in connection with interstate shipments of packing house products.

United States v. Nashville, Chattanooga & St. Louis Ry. (Middle Dist. of Tennessee, Nashville Div.)

Appeal under consideration to United States Supreme Court from decree of district court dismissing petition.

This case was instituted to compel the carrier to allow special agents or examiners of the Commission access to the respondent's correspondence files and indexes thereto.

**SUMMARY OF CASES DECIDED IN COURTS OF THE DISTRICT OF
COLUMBIA AND IMPORT OF EACH DECISION.**

United States ex rel. W. H. Snell Co. et al. v. Interstate Commerce Commission—originally instituted under the name of *United States ex rel. American Steel & Wire Co. v. Interstate Commerce Commission*. (Supreme Court of Dist. of Columbia.)

Petition dismissed (August 17, 1914) and appeal taken to the Court of Appeals of the Dist. of Columbia. On motion of that concern, the petition was dismissed without prejudice as to the American Steel & Wire Co. (September 3, 1914.)

This case was instituted by a number of industrial roads to compel the Commission to enter an order in the Industrial Railways case wherein the Commission held that certain industrial roads were plant facilities and not common carriers and that the payment to them of allowances or divisions by trunk lines was unlawful.

United States ex rel. Louisville Cement Co. v. Interstate Commerce Commission. (Supreme Court of Dist. of Columbia.)

Petition dismissed (July 20, 1914) and appeal taken to the Court of Appeals of the Dist. of Columbia.

This case involves an order of the Commission denying reparation on certain shipments of coal from North Jellico and Wilton, Ky., to Speeds, Ind., on the ground that the claims were barred by the statute of limitations because not filed with the Commission within two years from the date of delivery of the shipments. Petitioners prayed for a writ of mandamus to compel the Commission to award reparation.

SUMMARY OF CASES PENDING IN COURTS OF THE DISTRICT OF
COLUMBIA.

United States ex rel. W. H. Snell Co. v. Interstate Commerce Commission. (Ct. of Appeals, Dist. of Columbia.)

No hearing had.

This suit was instituted by a number of industrial roads to compel the Commission to enter an order in the Industrial Railways case wherein the Commission held that certain industrial roads were plant facilities and not common carriers and that the payment to them of allowances or divisions by trunk lines was unlawful.

United States ex rel. Louisville Cement Co. v. Interstate Commerce Commission. (Ct. of Appeals, Dist. of Columbia.)

Argued and submitted.

This case involves an order of the Commission denying reparation on certain shipments of coal from North Jellico and Wilton, Ky., to Speeds, Ind., on the ground that the claims were barred by the statute of limitations because not filed with the Commission within two years from the date of delivery of the shipments. Petitioners prayed for a writ of mandamus to compel the Commission to award reparation.

APPENDIX C.

STATISTICAL SUMMARIES.

SUMMARY OF STATISTICS FROM PERIODICAL REPORTS OF CARRIERS TO THE COMMISSION.
SUMMARY OF ACCIDENT STATISTICS.

SUMMARY OF STATISTICS FROM PERIODICAL REPORTS OF CARRIERS TO THE COMMISSION.

No particular comment on these figures appears to be necessary at this time further than to say that in some instances the 1913 figures shown in this report differ somewhat from those shown in last year's report, because of reclassifications, corrections, etc.

Summary of monthly reports of revenues and expenses of large steam roads.

[This summary includes all roads reporting operating revenues in excess of \$1,000,000 for the year ended June 30, 1913.]

Item.	Year ending June 30—		Average per mile of road operated.	
	1914	1913	1914	1913
Average number of miles of road operated..	225,477.62	223,547.30		
Operating revenues:				
Freight.....	\$2,061,260,883.09	\$2,143,858,711.17	\$9,141.75	\$9,590.18
Passenger.....	683,794,096.41	679,821,417.44	3,032.65	3,041.06
Other transportation.....	211,705,654.11	212,242,534.67	938.92	949.43
Nontransportation.....	34,630,691.80	33,404,111.22	153.59	149.43
Total.....	2,991,391,325.41	3,069,326,774.50	13,266.91	13,730.10
Operating expenses:				
Maintenance of way and structures.....	406,559,312.23	409,177,285.67	1,803.10	1,830.38
Maintenance of equipment.....	523,282,238.64	503,315,695.68	2,320.77	2,251.50
Traffic.....	62,454,734.82	61,581,227.58	276.99	275.47
Transportation.....	1,083,734,251.03	1,078,818,250.59	4,806.40	4,825.91
General.....	79,104,197.94	73,921,555.07	350.83	330.67
Total.....	2,155,134,734.66	2,126,814,014.59	9,558.09	9,513.93
Net operating revenues:				
Rail operations.....	836,256,590.75	942,512,759.91	3,708.82	4,216.17
Auxiliary operations.....	1,941,605.75	1,365,033.32	8.61	6.10
Total net operating revenue.....	834,314,985.00	943,877,793.23	3,700.21	4,222.27
Railway tax accruals.....	136,612,209.37	123,656,433.38	605.88	553.15
Railway operating income.....	697,702,775.63	820,221,359.85	3,094.33	3,669.12

Operating revenues and expenses of steam roads in the United States reporting annual operating revenues in excess of \$1,000,000.

Item.	July and August—							
	1914 ¹	1913	1912	1911	1910	1909	1908	1907
Average number of miles operated.....	227,806.03	224,486.06	220,282.34	218,173.51	213,273.40	207,029.97	202,108.48	198,486.17
Freight revenue.....	\$345,442,359.34	\$354,206,382.86	\$244,493,080.00	\$204,177,079.94	\$309,216,922.11	\$286,811,166.65	\$250,712,727.19	\$304,029,848.83
Passenger revenue.....	131,096,257.87	138,818,176.53	130,560,027.17	127,363,938.87	124,741,092.93	118,302,867.45	104,344,438.29	113,682,097.48
Other transportation revenue.....	35,639,411.16	35,379,382.30	34,029,345.31	31,730,013.32	30,758,060.31	28,017,038.27	25,461,121.21	27,916,789.19
Nontransportation revenue.....	210,942,630.78	5,874,211.13	5,579,258.14	4,562,026.91	4,167,169.91	3,659,532.44	3,184,545.96	4,108,078.03
Total operating revenues.....	523,120,639.15	534,278,162.82	514,661,710.62	467,833,061.24	468,883,245.26	436,790,604.81	383,702,832.65	449,736,793.53
Maintenance of way and structures.....	70,335,351.17	78,577,351.15	70,133,356.71	64,815,068.16	67,510,634.73	61,069,638.98	51,076,081.88	62,530,398.24
Maintenance of equipment.....	88,183,180.34	88,430,550.97	80,452,522.53	71,317,726.56	68,815,362.30	63,327,794.90	54,603,928.08	69,918,261.34
Traffic expenses.....	9,954,244.56	10,840,115.13	10,080,384.11	9,964,795.69	10,104,519.32	8,902,469.75	7,609,875.31	8,210,592.53
Transportation expenses.....	174,323,680.15	178,862,843.76	165,959,131.01	153,653,398.64	153,887,817.42	131,601,914.64	124,164,353.32	145,530,274.08
General expenses.....	12,045,773.94	12,485,273.20	11,349,443.75	11,045,216.39	10,738,939.34	9,722,969.88	9,105,337.98	9,259,796.74
Total operating expenses.....	\$358,011,325.87	369,196,134.21	337,974,838.11	310,796,805.44	311,057,273.11	274,624,788.15	246,559,576.57	295,449,322.93
Net operating revenue.....	165,109,313.28	165,082,028.61	176,686,872.51	157,036,255.80	157,825,972.15	162,165,816.66	137,143,256.08	154,287,470.60
Net revenue—Auxiliary operations.....	(¹)	331,467.27	842,307.38	797,386.08	722,808.22	1,177,633.38	1,574,198.34	1,511,035.92
Total net revenue from operation.....	165,109,313.28	165,413,495.88	177,529,179.89	157,833,641.88	158,548,780.37	163,343,450.04	138,717,454.42	155,798,506.52
Railway tax accruals.....	22,657,118.05	21,754,782.26	19,988,478.75	18,350,146.23	17,023,841.42	14,648,458.97	13,705,398.85	13,692,218.03
Railway operating income.....	\$142,386,563.69	143,658,713.62	157,540,701.14	139,483,495.65	141,524,938.95	148,694,991.07	125,012,055.57	142,706,288.49

AVERAGES PER MILE OF LINE OPERATED.

Freight revenue.....	\$1,516.39	\$1,577.86	\$1,563.87	\$1,394.20	\$1,449.86	\$1,385.36	\$1,240.48	\$1,531.74
Passenger revenue.....	575.47	618.38	502.69	583.78	584.89	571.43	516.28	572.75
Other transportation revenue.....	156.44	157.60	154.48	145.44	144.22	135.33	125.98	140.65
Nontransportation revenue.....	48.04	26.17	25.33	20.90	19.53	17.67	15.76	20.69
Total operating revenues.....	2,296.34	2,380.01	2,336.37	2,144.32	2,198.50	2,109.79	1,898.50	2,265.83
Maintenance of way and structures.....	308.75	350.03	318.38	297.08	316.54	294.98	252.72	315.04
Maintenance of equipment.....	387.09	383.92	365.23	326.89	322.66	305.89	270.17	332.26
Traffic expenses.....	43.70	48.29	45.67	45.67	47.38	43.00	37.65	41.36
Transportation expenses.....	765.23	796.77	753.39	704.27	721.56	635.67	614.35	733.20
General expenses.....	52.88	55.62	51.52	50.63	50.35	46.96	45.05	46.65
Total operating expenses.....	1,571.56	1,644.63	1,534.28	1,424.54	1,458.49	1,326.50	1,219.94	1,488.51
Net operating revenue.....	724.78	735.38	802.09	719.78	740.01	783.29	678.56	777.32
Net revenue—Auxiliary operations.....	.....	1.47	3.82	3.65	3.39	5.69	7.79	7.61
Total net revenue from operation.....	724.78	736.85	805.91	723.43	743.40	788.98	686.35	784.93
Railway tax accruals.....	99.46	96.91	90.73	84.11	79.82	70.76	67.81	65.96
Railway operating income.....	625.03	639.94	715.18	639.32	663.58	718.22	618.54	718.97

¹ The figures in this column, except for mileage, are only approximately comparable with corresponding items shown for prior years, because of revisions of classifications effective on July 1, 1914.

² Includes \$10,530,369.02, "Incidental" revenue (including some items formerly reportable under auxiliary operations), \$621,036.87, joint facility revenue-Cr., and \$208,775.11, joint facility revenue-Dr.

³ Includes \$4,204,008.88, expenses of "Miscellaneous operations," and \$1,034,913.17, "Transportation for investment-Cr."

⁴ See note 2.

⁵ Remainder after deducting \$65,631.54, "Uncollectible railway revenues."

Mileage covered by operations of the principal express companies on June 30, 1914 and 1913.

Name of carrier.	Steam road mileage.		Other lines mileage.		Total mileage.	
	1914	1913	1914	1913	1914	1913
Total.....	<i>Miles.</i> 253,203.75	<i>Miles.</i> 251,771.86	<i>Miles.</i> 49,491.77	<i>Miles.</i> 49,395.89	<i>Miles.</i> 302,695.52	<i>Miles.</i> 301,167.75
Adams Express Co.....	33,800.26	33,128.86	4,582.68	4,956.43	38,382.94	38,085.29
American Express Co.....	57,820.79	57,558.35	3,698.13	3,972.95	61,518.83	61,531.30
Canadian Express Co.....	6,250.31	6,358.53	1,430.00	825.00	7,680.31	7,183.53
Canadian Northern Express Co.....	6,130.77	5,736.67	22.00	22.00	6,152.77	5,758.67
Globe Express Co.....	2,839.78	2,839.78	.....	.....	2,839.78	2,839.78
Great Northern Express Co.....	8,766.80	8,912.65	566.49	417.59	9,333.29	9,330.24
Northern Express Co.....	7,803.34	7,737.60	315.00	370.70	8,118.34	8,108.30
Southern Express Co.....	32,813.60	32,541.60	891.00	865.00	33,704.60	33,406.60
United States Express Co.....	28,288.96	29,133.01	2,649.37	4,007.15	30,938.33	33,140.16
Wells, Fargo & Co.....	63,692.26	62,900.12	35,325.10	33,947.07	99,017.36	96,847.19
Western Express Co.....	4,996.97	4,924.69	12.00	12.00	5,008.97	4,936.69

Statement of revenues and expenses of the principal express companies for the years ended June 30, 1914 and 1913, as returned in monthly reports.

Item.	Grand total (12 companies).		Adams Express Co.	
	1914	1913	1914	1913
Express revenue.....	\$154,662,717.05	\$164,829,067.79	\$33,042,809.68	\$34,693,433.30
Miscellaneous transportation revenue...	204,600.56	140,426.25	199,812.57	132,696.62
Nontransportation revenue.....	4,011,741.40	3,911,429.09	370,819.62	355,997.85
Gross receipts from operation.....	158,879,059.01	168,880,923.13	33,613,441.87	35,182,127.77
Express privileges—Dr.....	79,858,819.44	83,872,497.17	17,532,431.79	18,444,344.98
Total operating revenues.....	79,020,239.57	85,008,423.96	16,081,010.08	16,737,782.79
Maintenance.....	4,008,606.07	3,780,641.70	1,151,845.10	992,316.79
Traffic expenses.....	1,393,273.87	1,431,488.30	147,733.84	152,730.96
Transportation expenses.....	65,968,953.58	68,016,274.05	14,420,981.60	14,279,990.39
General expenses.....	5,752,539.83	5,987,303.66	1,122,092.44	1,140,778.11
Total operating expenses.....	77,123,373.35	79,215,707.71	16,842,652.98	16,565,816.25
Net operating revenue.....	1,896,866.22	5,792,718.25	761,642.90	171,966.54
Taxes accrued.....	1,492,337.22	1,379,258.40	208,742.58	196,617.59
Operating income (or loss).....	404,529.00	4,413,459.85	965,385.48	24,651.05

Item.	American Express Co.		Canadian Express Co.	
	1914	1913	1914	1913
Express revenue.....	\$42,959,467.33	\$45,807,631.95	\$3,341,340.05	\$3,346,320.33
Nontransportation revenue.....	2,143,482.05	2,041,377.72	114,732.40	87,281.68
Gross receipts from operation.....	45,102,949.38	47,849,009.67	3,456,072.45	3,433,602.06
Express privileges—Dr.....	22,151,806.43	23,277,072.38	1,666,472.55	1,518,292.18
Total operating revenues.....	22,951,142.95	24,571,937.29	1,789,599.90	1,915,309.88
Maintenance.....	1,313,497.05	1,218,029.22	42,650.12	56,878.07
Traffic expenses.....	479,802.98	473,658.48	14,718.43	12,958.72
Transportation expenses.....	19,626,828.45	20,076,452.28	1,481,043.96	1,390,605.33
General expenses.....	1,794,446.23	1,871,727.48	123,421.81	113,910.29
Total operating expenses.....	23,214,574.71	23,639,867.46	1,661,834.32	1,574,352.41
Net operating revenue.....	263,431.76	932,069.83	127,765.58	340,957.47
Taxes accrued.....	381,337.90	360,192.36	38,949.34	33,330.95
Operating income (or loss).....	644,769.66	571,877.47	88,816.24	307,626.52

Item.	Canadian Northern Express Co.		Globe Express Co.	
	1914	1913	1914	1913
Express revenue.....	\$931,280.25	\$926,392.89	\$668,274.24	\$807,502.06
Nontransportation revenue.....	40,667.25	30,882.96	11,019.81	13,409.57
Gross receipts from operation.....	971,947.50	957,275.85	679,294.05	820,911.63
Express privileges—Dr.....	374,704.46	372,602.96	336,570.54	407,457.90
Total operating revenues.....	597,243.04	584,672.89	342,723.51	413,453.73
Maintenance.....	7,754.73	9,156.73	11,024.70	10,077.84
Traffic expenses.....	7,117.46	5,858.37	19,237.37	19,947.34
Transportation expenses.....	355,989.77	323,674.49	279,373.76	295,334.86
General expenses.....	32,131.16	27,143.93	48,281.07	53,907.84
Total operating expenses.....	402,993.12	365,833.52	357,916.90	379,267.83
Net operating revenue.....	194,249.92	218,839.37	15,193.39	34,185.85
Taxes accrued.....	21,157.10	6,316.85	12,049.33	12,250.00
Operating income (or loss).....	173,092.82	212,522.52	27,242.72	21,935.85

Item.	Great Northern Express Co.		Northern Express Co.	
	1914	1913	1914	1913
Express revenue.....	\$3,245,470.53	\$3,300,446.13	\$3,015,841.91	\$3,177,426.29
Nontransportation revenue.....	50,594.37	51,085.30	38,967.25	42,299.68
Gross receipts from operation.....	3,296,064.90	3,351,531.43	3,054,809.16	3,219,725.97
Express privileges—Dr.....	1,970,918.11	2,009,028.27	1,637,573.15	1,732,155.26
Total operating revenues.....	1,325,146.79	1,342,503.16	1,417,236.01	1,487,570.71
Maintenance.....	37,888.90	33,814.51	27,763.60	42,134.71
Traffic expenses.....	36,593.58	31,027.97	42,219.32	38,930.15
Transportation expenses.....	958,650.39	918,551.32	964,292.06	980,071.62
General expenses.....	53,171.64	54,482.02	58,969.39	67,331.50
Total operating expenses.....	1,086,304.51	1,037,875.82	1,093,244.37	1,128,467.98
Net operating revenue.....	238,842.28	304,627.34	323,991.64	359,102.73
Taxes accrued.....	45,659.34	47,073.42	60,375.97	55,150.75
Operating income (or loss).....	193,182.94	257,553.92	263,615.67	303,951.98

Item.	Southern Express Co.		United States Express Co.	
	1914	1913	1914	1913
Express revenue.....	\$15,663,541.09	\$15,854,083.17	\$19,324,351.76	\$21,292,190.21
Miscellaneous transportation revenue.....	529.89	799.14		
Nontransportation revenue.....	328,812.38	327,474.73	297,438.63	328,519.45
Gross receipts from operation.....	15,992,883.36	16,182,357.04	19,621,790.39	21,620,709.66
Express privileges—Dr.....	8,041,709.15	8,045,073.83	9,669,188.35	10,446,375.84
Total operating revenues.....	7,951,174.21	8,137,283.21	9,952,602.04	11,174,333.82
Maintenance.....	240,965.10	239,756.99	493,617.50	432,781.79
Traffic expenses.....	126,523.30	140,438.13	140,881.74	169,030.03
Transportation expenses.....	5,714,195.16	5,623,787.78	9,154,410.08	9,893,100.80
General expenses.....	797,228.75	797,438.34	602,284.30	650,265.12
Total operating expenses.....	6,878,912.31	6,801,421.24	10,391,193.62	11,145,177.74
Net operating revenue.....	1,072,261.90	1,335,861.97	438,591.58	29,156.03
Taxes accrued.....	181,488.17	161,242.54	134,314.78	138,667.67
Operating income (or loss).....	890,773.73	1,174,619.43	572,906.36	109,511.59

Item.	Wells, Fargo & Co.		Western Express Co.	
	1914	1913	1914	1913
Express revenue.....	\$31,276,561.05	\$34,327,572.35	\$1,193,779.16	\$1,296,069.06
Miscellaneous transportation revenue.....		3,565.15	4,258.10	3,365.34
Nontransportation revenue.....	586,371.66	603,676.28	28,835.98	29,423.87
Gross receipts from operation.....	31,862,932.71	34,934,813.78	1,226,873.24	1,328,858.27
Express privileges—Dr.....	15,816,159.38	16,908,590.36	661,285.53	711,503.21
Total operating revenues.....	16,046,773.33	18,026,223.42	565,587.71	617,355.06
Maintenance.....	674,677.48	738,662.31	6,921.79	7,032.74
Traffic expenses.....	354,490.56	370,453.04	23,955.29	16,455.11
Transportation expenses.....	12,505,743.53	13,738,759.56	507,444.82	495,945.62
General expenses.....	1,065,179.18	1,162,323.09	55,333.86	47,995.94
Total operating expenses.....	14,600,090.75	16,010,198.00	593,655.76	567,429.41
Net operating revenue.....	1,446,682.58	2,016,025.42	28,068.05	49,925.65
Taxes accrued.....	402,426.02	357,201.95	10,836.69	11,214.32
Operating income (or loss).....	1,044,256.56	1,658,823.47	38,904.74	38,711.33

Comparative statement of revenues and expenses reported by the Pullman Co.

Item.	For the month of September—			For the months of July, August, and September—		
	1914	1913	Increase (or decrease).	1914	1913	Increase (or decrease).
CAR OPERATIONS.						
Berth revenue.....	\$3,150,639.27	\$3,469,495.88	\$318,856.61	\$9,491,958.64	\$10,308,339.68	\$816,381.04
Seat revenue.....	649,853.94	714,703.39	64,849.45	2,072,269.02	2,213,211.36	140,942.34
Charter of cars.....	25,978.84	76,360.45	50,381.61	72,095.83	198,159.27	126,063.44
Miscellaneous revenue.....	5,479.63	6,361.74	882.11	17,536.07	19,246.35	1,710.28
Car-mileage revenue.....	70,128.75	70,393.69	266.94	218,073.25	236,474.73	18,401.48
Association revenue—Dr.....	50,480.16	61,495.87	11,015.71	106,833.97	194,353.63	87,519.66
Contract revenue—Dr.....	108,062.06	132,128.38	24,066.32	347,134.58	487,916.59	140,782.01
Total operating revenues.....	3,743,538.21	4,143,592.70	400,054.49	11,357,924.26	12,292,939.17	935,014.91
Maintenance of cars.....	1,128,571.32	995,088.17	132,883.15	3,237,307.66	3,330,908.19	78,600.53
All other maintenance.....	14,244.67	16,331.76	2,087.09	49,242.47	52,728.51	3,486.04
Conducting car operations.....	1,002,307.29	1,077,184.79	74,877.50	3,241,007.38	3,241,242.44	235.06
General expenses.....	79,089.80	80,977.86	988.06	267,195.27	260,275.63	6,919.64
Total operating expenses.....	2,225,113.08	2,170,182.58	54,930.50	6,814,752.78	6,885,154.77	70,401.99
Net operating revenue (or deficit).....	1,518,425.13	1,973,410.12	454,984.99	4,543,171.48	5,407,804.40	864,632.92
AUXILIARY OPERATIONS.						
Total revenues.....	60,685.77	82,766.65	22,080.88	177,861.74	248,867.08	71,005.34
Total expenses.....	53,334.02	79,006.84	26,672.82	169,137.27	247,449.34	78,312.07
Net revenue (or deficit).....	7,351.75	2,859.81	4,491.94	8,724.47	1,417.74	7,306.73
Total net revenue (or deficit).....	1,525,776.88	1,976,269.93	450,493.05	4,551,895.95	5,409,222.14	857,326.19
Taxes accrued.....	95,000.00	85,000.00	10,000.00	285,000.00	245,000.00	40,000.00
Operating income (or loss).....	1,430,776.88	1,891,269.93	460,493.05	4,266,895.95	5,164,222.14	897,326.19
Miles.						
Total railway mileage over which respondent conducted operations on July 31, 1914.....	126,852					
On corresponding date of previous year.....	127,905					

ACCIDENT STATISTICS.

Summary of casualties to persons for the years ended June 30, 1914 and 1913.

tem.	Steam railways.				Electric railways.			
	1914		1913		1914		1913	
	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.
Passengers:								
In train accidents.....	85	7,001	181	8,662	18	1,182	10	1,252
Other causes.....	180	8,120	222	7,877	40	2,047	26	1,789
Total.....	265	15,121	403	16,539	58	3,229	36	3,041
Employees on duty:								
In train accidents.....	452	4,823	557	6,905	9	100	18	154
In coupling accidents.....	171	2,692	195	3,360	2	25	1	19
Overhead obstructions, etc....	89	1,490	94	1,835	2	28	6	34
Falling from cars, etc.....	497	14,563	560	16,005	8	126	8	138
Other causes.....	1,314	27,273	1,533	28,514	25	289	17	203
Total.....	2,523	50,841	2,939	56,619	46	568	50	548
Total passengers and employees on duty.....	2,788	65,962	3,342	73,158	104	3,797	86	3,589
Employees not on duty:								
In train accidents.....	5	117	12	146		16		5
In coupling accidents.....		2		1				
Overhead obstructions, etc....	3	5	2	9				
Falling from cars, etc.....	54	370	65	408	1	13	1	19
Other causes.....	265	603	283	614	2	5	2	4
Total.....	327	1,097	362	1,178	3	34	3	28
Other persons:								
Not trespassing—								
In train accidents.....	9	148	9	110	1	4	1	8
Other causes.....	1,298	5,827	1,279	5,932	247	1,081	196	860
Total.....	1,307	5,975	1,288	6,042	248	1,085	197	868
Trespassers—								
In train accidents.....	75	178	90	174				
Other causes.....	5,396	6,176	5,468	6,136	168	139	117	123
Total.....	5,471	6,354	5,558	6,310	168	139	117	123
Total accidents involving train operation.....	9,893	79,388	10,550	86,688	523	5,055	403	4,608
Industrial accidents to employees not involving train operation...	409	113,274	414	113,620	28	1,053	19	798
Grand total.....	10,302	192,662	10,964	200,308	551	6,108	422	5,406

Deraillments—Steam Railways.

DUE TO DEFECTS OF EQUIPMENT.

Causes.	Year ended June 30, 1914.				Year ended June 30, 1913.			
	Num- ber.	Persons—		Damage to road and equipment and cost of clearing wrecks.	Num- ber.	Persons—		Damage to road and equipment and cost of clearing wrecks.
		Killed.	In- jured.			Killed.	In- jured.	
Defective wheels:								
Broken or burst wheel.....	360	4	29	\$455,335	351	5	108	\$390,689
Broken flange.....	534	8	100	326,247	605	10	104	600,348
Loose wheel.....	117	1	74	97,739	130	1	19	97,535
Miscellaneous wheel defects.....	118	2	65	66,766	137	2	46	74,557
Broken or defective axle or journal.....	425	2	120	340,185	474	6	61	395,034
Broken or defective brake rigging.....	580	9	162	398,758	578	5	181	393,369
Broken or defective draft gear.....	411	2	57	253,978	366	.....	43	229,492
Broken or defective side bearings.....	143	3	44	110,928	134	1	66	86,312
Broken arch bar.....	276	1	66	278,695	294	7	41	342,251
Rigid trucks.....	217	.....	38	113,774	258	3	60	128,564
Failure of power-brake apparatus, hose, etc.....	260	1	25	130,631	313	.....	34	138,336
Failure of couplers.....	233	2	18	116,134	205	2	25	87,876
Miscellaneous.....	512	15	276	468,918	521	7	457	456,674
Total.....	4,186	50	1,074	3,358,088	4,366	49	1,245	3,421,037

DUE TO DEFECTS OF ROADWAY.

Broken rail.....	311	24	810	\$387,053	340	17	827	\$401,551
Spread rail.....	217	3	147	126,327	231	8	246	125,499
Soft track.....	356	.....	218	254,265	299	5	113	162,579
Bad ties.....	62	3	113	29,760	59	2	110	34,784
Sun kink.....	27	3	21	22,701	31	1	140	47,638
Irregular track.....	512	12	227	378,383	533	14	370	408,390
Broken or defective switch or frog.....	299	13	294	186,702	320	7	207	160,297
Miscellaneous.....	104	8	157	131,152	146	16	217	243,191
Total.....	1,888	66	1,987	1,516,343	1,959	70	2,230	1,583,929

Summary of accidents resulting from collisions and derailments for the 10 years ended June 30, 1914.¹

Year.	Number.	Persons—		Damage to road and equipment, and cost of clearing wrecks.
		Killed.	Injured.	
1905.....	11,595	1,064	11,949	\$9,711,656
1906.....	13,455	977	12,686	10,659,189
1907.....	15,458	1,291	16,236	12,865,702
1908.....	13,034	728	12,834	10,183,660
1909.....	9,670	606	9,560	7,480,203
1910.....	11,779	773	12,579	9,823,958
1911.....	11,865	785	11,793	9,851,780
1912.....	13,698	772	15,096	11,527,458
1913.....	15,526	791	14,565	13,049,214
1914.....	13,806	605	11,437	10,965,181

¹ For the years prior to 1911 the figures for persons killed and injured are restricted to passengers and to employees on duty. Returns for electric railways are included in the figures for the same years.

Derailments due to defects of equipment for the 10 years ended June 30, 1914.¹

Year.	Num- ber.	Persons—		Damage to road and equip- ment and cost of clearing wrecks.	Num- ber.	Persons—		Damage to road and equip- ment and cost of clearing wrecks.
		Killed.	In- jured.			Killed.	In- jured.	
BROKEN OR BURST WHEEL.								
BROKEN WHEEL FLANGE.								
1905.....	235	6	88	\$337,999	581	2	94	\$507,432
1906.....	182	1	23	212,803	649	12	135	543,773
1907.....	242	8	73	264,692	693	9	107	675,134
1908.....	234	.....	41	270,097	582	7	94	614,967
1909.....	220	.....	15	246,286	518	6	73	497,712
1910.....	241	4	19	256,074	619	3	88	583,972
1911.....	235	6	34	281,985	581	11	72	582,360
1912.....	357	3	27	371,938	627	8	64	605,882
1913.....	351	5	108	390,689	605	10	104	600,348
1914.....	360	4	29	455,335	534	8	100	526,247
Total.....	2,657	37	457	3,087,898	5,989	76	931	5,737,827
LOOSE WHEEL.								
MISCELLANEOUS WHEEL DEFECTS.								
1905.....	69	.....	16	\$38,422	96	6	57	\$57,434
1906.....	85	.....	15	72,772	85	3	62	58,335
1907.....	132	3	95	127,210	142	8	74	77,535
1908.....	98	1	22	54,674	117	1	66	55,266
1909.....	101	1	56	82,799	74	1	50	37,115
1910.....	105	1	39	120,418	81	2	67	48,201
1911.....	163	.....	28	89,073	78	1	43	55,047
1912.....	124	2	20	97,671	127	2	169	109,413
1913.....	130	1	19	97,535	137	2	46	74,557
1914.....	117	1	74	97,739	118	2	65	66,766
Total.....	1,064	10	384	878,313	1,055	28	699	639,669
BROKEN OR DEFECTIVE AXLE OR JOURNAL.								
BROKEN OR DEFECTIVE BRAKE RIGGING.								
1905.....	327	4	74	\$249,133	218	5	67	\$163,023
1906.....	357	5	87	274,866	292	4	109	226,096
1907.....	425	2	48	274,498	379	9	151	335,696
1908.....	351	4	70	233,222	427	6	225	327,100
1909.....	289	2	46	214,735	294	3	134	204,946
1910.....	337	1	41	281,100	363	6	119	251,252
1911.....	355	9	88	310,782	382	9	131	289,968
1912.....	410	2	104	302,146	528	4	157	411,294
1913.....	474	6	61	395,034	578	5	181	393,369
1914.....	425	2	120	340,185	580	9	162	398,758
Total.....	3,750	37	739	2,875,701	4,041	60	1,436	3,001,502
BROKEN OR DEFECTIVE DRAFT GEAR.								
BROKEN OR DEFECTIVE SIDE BEARINGS.								
1905.....	232	1	38	\$154,639	30	1	32	\$17,429
1906.....	232	.....	44	142,384	33	.....	15	11,601
1907.....	237	1	55	134,043	65	1	11	36,555
1908.....	174	2	35	80,200	69	.....	22	41,354
1909.....	105	1	20	46,912	42	2	33	39,779
1910.....	148	1	17	87,931	55	1	5	41,523
1911.....	131	2	29	77,572	79	4	39	66,595
1912.....	177	6	48	110,456	177	1	94	125,785
1913.....	366	.....	43	229,492	134	1	66	86,312
1914.....	411	2	57	253,978	143	3	41	110,928
Total.....	2,213	16	386	1,317,607	827	14	361	577,861

¹ For the years prior to 1911 the figures for persons killed and injured are restricted to passengers and to employees on duty. Returns for electric railways are included in the figures for the same years.

*Derailments due to defects of equipment for the 10 years ended June 30,
1914—Continued.*

Year.	Num- ber.	Persons—		Damage to road and equip- ment and cost of clearing wrecks.	Num- ber.	Persons—		Damage to road and equip- ment and cost of clearing wrecks.
		Killed.	In- jured.			Killed.	In- jured.	
	BROKEN ARCH BAR.				RIGID TRUCKS.			
1905.....	62	2	65	\$55,097	46	.....	20	\$32,409
1906.....	105	1	25	117,882	76	.....	58	38,430
1907.....	109	1	23	86,638	91	.....	22	43,283
1908.....	136	4	47	118,517	76	.....	21	37,452
1909.....	129	.....	55	117,754	43	.....	20	31,607
1910.....	144	.....	30	140,810	68	4	24	37,154
1911.....	119	1	7	136,370	55	1	30	40,315
1912.....	257	8	130	275,828	184	2	66	124,979
1913.....	294	7	41	342,251	258	3	60	128,564
1914.....	276	1	66	278,695	217	.....	38	113,774
Total.....	1,631	25	489	1,669,842	1,114	10	359	627,967
	FAILURE OF POWER-BRAKE APPA- RATUS, HOSE, ETC.				FAILURE OF COUPLERS.			
1905.....	258	3	75	\$141,161	212	1	24	\$97,782
1906.....	213	6	33	144,713	229	4	42	89,719
1907.....	122	4	14	82,056	145	.....	18	66,728
1908.....	92	4	19	60,889	103	2	23	47,086
1909.....	141	3	41	75,472	169	4	18	78,658
1910.....	182	7	30	101,092	121	.....	14	50,461
1911.....	168	1	28	78,078	185	.....	27	94,264
1912.....	216	5	29	107,203	208	2	30	98,892
1913.....	313	.....	34	138,336	205	2	25	87,876
1914.....	260	1	25	130,631	233	2	18	116,134
Total.....	1,965	34	328	1,059,631	1,810	17	239	827,600
	MISCELLANEOUS DEFECTS.				GRAND TOTAL.			
1905.....	239	9	148	\$216,660	2,605	40	798	\$2,068,620
1906.....	273	6	154	292,779	2,811	42	802	2,226,153
1907.....	396	13	235	285,960	3,178	59	926	2,490,028
1908.....	337	6	146	235,370	2,796	37	831	2,176,194
1909.....	237	6	90	201,871	2,362	29	651	1,875,646
1910.....	270	10	143	227,364	2,734	40	636	2,227,352
1911.....	353	19	133	276,665	2,824	64	689	2,379,074
1912.....	455	23	259	423,546	3,847	68	1,197	3,165,033
1913.....	521	7	457	456,674	4,366	49	1,245	3,421,037
1914.....	512	15	276	468,918	4,186	50	1,074	3,358,088
Total.....	3,593	114	2,041	3,085,807	31,709	478	8,849	25,387,225

¹ For the years prior to 1911 the figures for persons killed and injured are restricted to passengers and to employees on duty. Returns for electric railways are included in the figures for the same years.

Derailments due to defects of roadway for the 10 years ended June 30, 1914.¹

Year.	Num- ber.	Persons—		Damage to road and equip- ment and cost of clearing wrecks.	Num- ber.	Persons—		Damage to road and equip- ment and cost of clearing wrecks.
		Killed.	In- jured.			Killed.	In- jured.	
BROKEN RAIL.					SPREAD RAIL.			
1905.....	201	4	465	\$257,519	168	7	183	\$103,565
1906.....	220	7	635	254,862	168	2	146	101,611
1907.....	308	12	699	284,675	206	5	166	109,607
1908.....	238	16	433	296,327	200	1	164	138,160
1909.....	196	5	498	191,842	130	2	94	65,811
1910.....	243	24	369	293,899	171	7	152	147,597
1911.....	249	12	463	292,749	153	4	192	102,433
1912.....	363	52	1,065	511,778	251	6	256	154,235
1913.....	340	17	827	401,551	231	8	246	125,499
1914.....	311	24	810	387,053	217	3	147	126,327
Total.....	2,669	173	6,264	3,172,255	1,895	45	1,746	1,174,845
SOFT TRACK.					BAD TIES.			
1905.....	99	6	111	\$71,469	19	.....	36	\$7,723
1906.....	180	4	166	111,115	25	.....	25	14,473
1907.....	182	5	216	173,155	45	.....	16	16,955
1908.....	151	.....	167	136,839	42	.....	43	24,347
1909.....	114	4	77	72,901	36	.....	5	11,495
1910.....	110	1	250	74,769	31	1	12	18,096
1911.....	108	1	128	66,192	41	.....	17	18,972
1912.....	327	13	294	228,079	52	.....	30	20,492
1913.....	299	5	113	162,579	59	2	110	34,784
1914.....	356	.....	218	254,265	62	3	113	29,760
Total.....	1,926	39	1,740	1,351,363	412	6	407	197,097
SUN KINK.					IRREGULAR TRACK.			
1905.....	15	5	101	\$25,300	154	10	266	\$104,293
1906.....	13	1	9	8,113	232	8	226	145,624
1907.....	18	1	40	33,664	272	5	230	253,296
1908.....	28	1	93	31,783	211	6	189	144,505
1909.....	14	1	14	28,749	175	3	96	107,282
1910.....	28	.....	33	16,372	202	3	225	149,295
1911.....	30	3	62	51,207	179	5	130	122,526
1912.....	22	2	61	11,214	531	15	743	389,591
1913.....	31	1	140	47,638	533	14	370	408,390
1914.....	27	3	21	22,701	512	12	227	378,383
Total.....	226	18	574	276,741	3,001	81	2,702	2,203,185
MISCELLANEOUS DEFECTS.					GRAND TOTAL.			
1905.....	351	18	284	\$207,564	1,007	50	1,446	\$777,433
1906.....	449	16	401	282,258	1,287	38	1,608	918,056
1907.....	497	30	616	383,762	1,528	58	1,983	1,255,114
1908.....	545	21	472	314,464	1,415	45	1,561	1,086,425
1909.....	315	9	376	224,009	980	24	1,160	702,089
1910.....	326	6	290	211,929	1,111	42	1,331	911,957
1911.....	465	32	568	353,381	1,225	57	1,560	1,007,460
1912.....	331	14	317	226,071	1,877	102	2,766	1,541,460
1913.....	466	23	424	403,488	1,959	70	2,230	1,583,929
1914.....	403	21	451	317,854	1,888	66	1,987	1,516,343
Total.....	4,148	190	4,199	2,924,780	14,277	552	17,632	11,300,266

¹ For the years prior to 1911 the figures for persons killed and injured are restricted to passengers and to employees on duty. Returns for electric railways are included in the figures for the years 1905, 1906, and 1907.

APPENDIX D.

POINTS DECIDED BY THE COMMISSION IN REPORTED
CASES, WITH INDEX OF POINTS DECIDED
AND TABLE OF CASES.

POINTS DECIDED IN REPORTED CASES.

Springfield Commercial Asso. v. P. R. R. Co. (28 I. C. C., 511.)

3446. At present Peoria, Ill., takes 110 per cent of the New York-Chicago rate on traffic to and from the East, while Springfield, Ill., is in 117 per cent territory; upon complaint insisting that Springfield should be placed in the Peoria group; *Held*, That if Peoria enjoys a rate of 110 per cent, the rate to Springfield should not exceed 113 per cent.

Lee Co. v. I. C. R. R. Co. (28 I. C. C., 515.)

3447. Second-class rate with 12,000-pound minimum for the transportation of incubators and brooders in mixed carloads from Omaha, Nebr., to Memphis, Tenn., found unreasonable to the extent that it exceeded the third-class rate, with 18,000-pound minimum. Reparation awarded.

United States v. U. P. R. R. Co. (28 I. C. C., 518.)

3448. On complaints of the United States Government that the failure and refusal of defendants to establish through routes and joint rates between Chicago, Ill., and other points and Oregon Short Line Railroad stations via the Northern Pacific Railway and via the Atchison, Topeka & Santa Fe Railway subjects those carriers to undue prejudice and disadvantage, deprives the Government of the full benefit of land-grant deductions reserved to it by statute, and defeats the spirit and purpose of the so-called public highways acts: *Held*, That the allegations of undue prejudice and disadvantage are not sustained; that existing through routes via the Union Pacific Railroad are not shown to be unreasonably long, inadequate, or unsatisfactory; that the Union Pacific and Oregon Short Line Railroads are operated jointly and under a common management or control, and no facts are shown which overcome the clear intent of section 15 of the act; that the Commission is not empowered to require carriers to grant to the United States free transportation or other rates or concessions than those afforded the general public, and is not deprived of jurisdiction to consider the merits of a controversy by absence of affirmative showing of the right of the officer presenting the complaint to do so in the name of the United States. Complaints dismissed.

Scrap iron rates between Chicago, Ill., and other points and Racine, Milwaukee, Wis., and other points. (28 I. C. C., 525.)

3449. Proposed increase in the rate on scrap iron between Milwaukee, Wis., and Chicago, Ill., in both directions, not justified, but a maximum rate of 3 cents per 100 pounds established for the future.

Rates on coal to Milwaukee and other Wisconsin points. (28 I. C. C., 527.)

3450. The holding of the original opinion, 27 I. C. C., 223, as to the maintenance of routes and rates for the transportation of soft coal from certain West Virginia and Kentucky mines to points on the west shore of Lake Michigan, when destined to points beyond, is affirmed. An advance of 10 cents per ton in the proportional rates here in question is likewise permitted.

Scott-Mayer Commission Co. v. C., R. I. & P. Ry. Co. (28 I. C. C., 529.)

3451. Complainant alleges that defendants' separately established rate of 19 cents per 100 pounds for the transportation of apples in carloads from Memphis, Tenn., to Little Rock, Ark., applicable to through shipments from the Cumberland Valley region of Pennsylvania, is unreasonable and unjustly discriminatory because defendants maintain a proportional rate of 13 cents from Memphis to Little Rock on apples forwarded as through shipments to Little Rock from points in western New York. No evidence was presented tending to show that the 19-cent rate is unreasonable in and of itself: *Held*, That under these circumstances the Commission will not disturb the factor under consideration except upon a showing that such factor, or the through rate of which it is a part, is unreasonable or otherwise in violation of the act. Complaint dismissed.

Traffic Bureau of Nashville v. L. & N. R. R. Co. (28 I. C. C., 533.)

3452. Conditions affecting the transportation of coal from Louisville & Nashville Railroad western Kentucky mines to Louisville, Ky., Memphis and Nashville, Tenn., not found to be so dissimilar as to preclude a comparison of the rates from the same fields to the three cities.

3453. Rate of \$1 per ton on coal to Nashville from Louisville & Nashville western Kentucky mines found to be unreasonable and rate of 80 cents prescribed. A like rate from Nashville, Chattanooga & St. Louis Railway mines in Tennessee and Alabama found to be unreasonable and rate of 90 cents prescribed.

3454. Complaint as to unreasonableness of \$1 rate to Nashville on coal from Illinois Central western Kentucky mines not sustained.

3455. The value of ton, car, and train mileage statistics in fixing rates discussed.

3456. The Louisville & Nashville and the Nashville, Chattanooga & St. Louis interswitch all traffic, including coal, at Nashville. They refuse to switch coal to and from the Tennessee Central, which road retaliates by refusing to switch coal to or from the rails of either of the other two. Upon complaint: *Held*, That the practice of all three roads is unreasonable; and, further, that of the Louisville & Nashville and Nashville, Chattanooga & St. Louis is unjustly discriminatory. Discrimination required to be removed and reasonable practice prescribed.

3457. "Terminals are either open or they are not," and a carrier may not exercise an arbitrary discretion, based upon a strained construction of the proviso of section 3, in saying for what roads and for what traffic it will open its terminals and for what other roads and traffic it will decline so to do.

Memphis Freight Bureau v. B. & O. R. R. Co. (28 I. C. C., 543.)

3458. Rate of 38 cents per 100 pounds for the transportation of imported burlap from north Atlantic ports to Memphis, Tenn., not found to be unduly prejudicial. Complaint dismissed.

Grain rates in C. F. A. Territory. (28 I. C. C., 549.)

3459. Proposed increase in reshipping rates on malt from Milwaukee and Chicago to points in central freight association territory and to western termini of trunk lines has been justified. Order of suspension vacated.

3460. Proposed increase in rates on certain by-products of grain from Mississippi River crossings has not been justified. Present rates should be continued in effect.

3461. Proposed increase in proportional rates from upper Mississippi River crossings as compared with those from the lower crossings has not been justified. Present rates should be continued for the future.

3462. Proposed general increase in grain rates from Illinois points to markets of consumption has been justified, but lawfulness of individual rates not passed on.

Iowa State Board of Railroad Commissioners v. A. E. R. R. Co. (28 I. C. C., 563.)

3463. Defendants will be expected to establish rates between the Iowa stations of record herein, according as the stations fall within the prescribed zones, and Colorado and Utah common points, on or before April 1, 1914.

3464. The mileage rates proposed in the original report adhered to, except that they should not apply to southern Kansas and that the mileage rates for class A should be somewhat higher than for class 5.

3465. Certain arbitraries over the one-line haul prescribed in case of a two-line haul.

Texarkana Freight Bureau v. St. L., I. M. & S. Ry. Co. (28 I. C. C., 569.)

Complainants allege that class and commodity rates from St. Louis, Kansas City, and Memphis, and from points in central freight association and western trunk line territories to Texarkana, Ark., and Texarkana, Tex., are unjust, unreasonable, and discriminatory as compared with the rates from the same territory of origin to Shreveport, La. Intervener and defendants state that the rates to the latter point are influenced by water competition; *Held*:

3466. The history of class rates to Shreveport and Texarkana and a comparison of these rates with rates for equal distances to points entirely uninfluenced by water competition, show that the level of class rates from St. Louis and defined territories to Shreveport is no longer influenced by water competition.

3467. Class rates from St. Louis, Kansas City, Memphis, and defined territories to Texarkana should not exceed those contemporaneously maintained from the same points of origin to Shreveport, La. Texarkana rates should be regarded as maximum rates to all points intermediate via the direct lines.

3468. Suggested that commodity rates to Texarkana, which to Shreveport make through the lower Mississippi crossings, should not exceed those to the latter city by more than 6 cents per 100 pounds. This amount not to be considered as a fixed differential but merely as a maximum. Commodity rates to Texarkana, which to Shreveport make via the direct lines, should not exceed those contemporaneously maintained to the latter point.

3469. A readjustment of rates which make through and from the lower Mississippi River crossings to the Shreveport group suggested.

3470. In the making of joint through rates on long-distance traffic to local or noncompetitive points, the differentials above the rates to the basing points should bear some reasonable relation to the total distances involved. *Board of Trade of Carrollton, Ga., v. C. of G. Ry. Co.*, 28 I. C. C., 154, 165.

3471. While carriers may properly meet water competition, the maintenance of a lower rate to one point than to other points which are intermediate can not be justified on the ground that it is necessary to suppress water competition.

Carl Eichenberg v. Southern Pacific Co. (28 I. C. C., 584.)

3472. Upon the original hearing of this case the Commission held that the complainant had been unlawfully discriminated against by the defendants in the matter of certain dock privileges at Galveston, Tex. Complainant now claims reparation in the sum of \$48,341.54; *Held*, That complainant is entitled to recover the admitted per ton advantage of 40 cents per ton on the 300 tons of cottonseed meal and cake shown to have been shipped over defendants' wharves.

Alton Board of Trade v. C. & A. R. R. Co. (28 I. C. C., 589.)

3473. The present adjustment of class rates from East St. Louis to Henderson and Owensboro, Ky., not found to be discriminatory as against the rates from Alton, Ill., to the same points.

3474. Upon consideration of the application of the Louisville & Nashville Railroad Company for permission to continue lower class rates from Alton, Ill., to Louisville, Ky., than rates maintained on like traffic to Henderson and Owensboro and intermediate points; *Held*, That the rates from Alton to Henderson and Owensboro and intermediate stations west thereof should not exceed the rates concurrently applicable from the same point of origin to Louisville.

J. E. Bryant Co. v. Ft. W. & D. C. Ry. Co. (28 I. C. C., 594.)

3475. Rate of 81 cents per 100 pounds now in effect for the transportation of bananas in carloads from New Orleans, La., to Amarillo, Tex., not found unreasonable or unduly prejudicial.

3476. Defendants' tariffs effective from May 15, 1911, to February 15, 1912, found to have provided a rate of 67 cents per 100 pounds for the transportation of bananas in carloads from New Orleans, La., to Amarillo, Tex. Reparation awarded on account of overcharges.

3477. Charges collected on shipments of coconuts in straight carloads, or mixed carloads with bananas, found to have been unreasonable to the extent they exceeded charges based on rate of 81 cents per 100 pounds. Reparation awarded.

Packing-house products rating upon traffic originating at or destined to points in Arkansas, Louisiana, and Oklahoma. (28 I. C. C., 599.)

3478. It being proposed to cancel the fourth-class rating on cured meat in sacks to points in Arkansas from St. Louis and Kansas City, Mo., and a few other packing-house centers, and to establish the rating of second class, carried in western classification and applicable generally throughout the southwest, in promotion of relative equality both between packing-house centers and points of destination; *Held*, That the proposed change in classification should be permitted to become effective. Order of suspension vacated.

Omaha-Wisconsin grain rates. (28 I. C. C., 602.)

3479. Proposed increased rates on wheat and corn from Omaha, Nebr., Council Bluffs, Iowa, and lower Missouri River cities to certain Wisconsin points on the Minneapolis, St. Paul & Sault Ste. Marie Railway found to be reasonable and order of suspension vacated.

New Orleans, La., storage rules and regulations. (28 I. C. C., 605.)

3480. Respondents' reduction of free storage time at their freight sheds at New Orleans, La., from 96 hours to 72 hours on all commodities specified, except hay, is justified.

3481. Respondents' increases in storage charges after the expiration of free time, for the purpose of inducing shippers to remove their commodities more promptly from the freight sheds, are not excessive and are justified by the record.

3482. In computing the free storage time Sundays and holidays should be excluded, but in reckoning the storage period after the expiration of the free time Sundays and holidays may be properly included.

Thomas Iron Co. v. P. R. R. Co. (28 I. C. C., 608.)

3483. Rate of 60 cents per gross ton on imported iron ore in earloads from Philadelphia to Island Park, Pa., found to have been justified by defendants.

3484. A portion of Fourth Section Application No. 1625, filed by defendants, involving a rate on imported iron ore from Philadelphia, Pa., to South Bethlehem, Pa., via Phillipsburg, N. J., less than the rate to Island Park, Pa., granted.

Patent Vulcanite Roofing Co. v. A. & W. Ry. Co. (28 I. C. C., 610.)

3485. Defendants' rate for the transportation of prepared roofing in sheets should not exceed their rate for the transportation of the same article in rolls.

Rates on soda ash and other commodities from Wyandotte, Mich., to Canadian destinations. (28 I. C. C., 613.)

3486. Carriers have not justified the increases in question; the present rates found reasonable for the future; but the carriers allowed to apply to this Commission for modification if the Canadian commission takes such action in the premises as requires such modification, or if a Canadian line not subject to the act to regulate commerce refuses to participate in these rates.

Sligo Iron Store Co. v. St. L. & S. F. R. R. Co. (28 I. C. C., 616.)

3487. Rate for the transportation of wagon wood and plow beams, in the rough, from Fayette Junction, Ark., to Huntsville and Austin, Tex., found to be unreasonable to the extent that it exceeds the rate contemporaneously in effect on lumber of the kind from which said articles are manufactured. Reparation awarded.

Hull Vehicle Co. v. S. Ry. Co.

3488. Charges collected by the defendants for the transportation of a carload shipment of buggies from Dallas, Tex., to Savannah, Ga., not shown to have been unreasonable. Complaint dismissed.

Waverly Oil Works Co. v. P. R. R. Co. (28 I. C. C., 621.)

3489. Complainant alleges that the charge of 4 cents per 100 pounds for switching freight to and from its industry, located on the Pennsylvania Railroad at Pittsburgh, Pa., when complainant desires to move its shipments to and from Pittsburgh by lines other than the Pennsylvania, is unreasonable; *Held*, That this Commission under the facts of this case ought not as a matter of discretion, even if it could as a matter of law, to establish a mere switching charge which the competitors of the Pennsylvania lines can absorb and under which they can obtain the virtual use of these terminals; but the Commission has the power to establish joint rates from any point upon these terminals where traffic is received by the Pennsylvania to a point upon any connecting line, and vice versa.

3490. While cases may be easily imagined where a railroad would be guilty of undue prejudice by reason of a diversity in switching charges between two localities served by it, that can hardly be true in this case, nor could the Commission on this record require these defendants to maintain the same system of switching charges at Pittsburgh which they maintain at other points upon their system.

3491. No unjust discrimination arises out of the circumstance that the different members of the Pennsylvania system accord the use of their Pittsburgh terminals to one another while refusing it on the same terms to their outside competitors.

3492. A series of joint rates from various points to points on the Pittsburgh terminals, and vice versa, should be established based upon the suggestions in this report.

Railroad Commissioners of Florida v. Southern Express Co. (28 I. C. C., 634.)

3493. Commodity rates of the Southern Express Company for the transportation of citrus fruits, pineapples, cantaloupes, and vegetables from points in Florida to numerous destinations south of the Ohio and Potomac Rivers and east of the Mississippi River having been considered in connection with and substantially reduced in many instances as the result of the conclusions announced and order entered in the general express investigation recently conducted by the Commission, no order will now be entered in this case.

Kansas City & Memphis Ry. Co. rate cancellation. (28 I. C. C., 640.)

3494. Proposed cancellation of joint through rates between the St. Louis & San Francisco and Kansas City & Memphis railways (the latter extending 30 miles from Rogers to Siloam Springs, Ark.) permitted to become effective as to junction points between the two carriers. To and from local points on the Kansas City & Memphis joint rates ordered to be maintained, which may be made a reasonable amount above the junction-point rate

Becker v. P. M. R. R. Co. (28 I. C. C., 645.)

Complainants contend that they are entitled to free reconsignment of coal at Milwaukee and ask reparation on account of damage suffered as the result of alleged unjustifiable holding of cars at Ludington, including reconsignment and demurrage charges paid on cars detained, as well as tort damages. The complaint also embraces a charge of discrimination, and further alleges that the new tariff, effective February 9, 1913, is unreasonable because of its failure to provide for reconsignment at Milwaukee; *Held*:

3495. Complainants were not entitled to free reconsignment at Milwaukee under the tariff of October 2, 1912, but were entitled to reconsignment at a charge of \$2 per car. The detention of cars at Ludington was unjustifiable and demurrage charges were improperly assessed and must be refunded.

3496. With respect to cars which arrived at Ludington before the receipt of passing notice and proper time for giving disposition orders, the charges paid were improperly assessed and should be refunded. There is no evidence upon which to measure damages as to cars on which the notice was sufficient. Damage regarding these lies in the difference between the value of the reconsignment service at Milwaukee and at Ludington. No damages were proved as the result of granting reconsignment to complainants' competitors and denial of the service to complainants.

3497. The Commission's jurisdiction to award tort or general damages, as distinguished from rate damages, discussed in *Joyes v. P. R. R. Co.*, 17 I. C. C., 361, and in *Hillsdale Coal & Coke Co. v. P. R. R. Co.*, 23 I. C. C., 186. In the present case there should be no award for damages of this nature. This conclusion rests on the general principle of the law of torts that one who suffers a tort damage must use due diligence to minimize or avoid his loss.

3498. The Commission has power, in its discretion, to require the establishment of reconsignment and diversion on the basis of the through rate from the point of origin to new destination, with a fair charge for the extra services performed.

3499. A carrier may, as a matter of convenience, when its terminal tracks are congested, hold cars at some point short of destination, provided such a course involves no disadvantage to the public.

3500. Tariff provision with regard to the giving of passing notice at Toledo should be made. If after the receipt of such notice shippers fail to give disposition orders before the cars reach Milwaukee, they shall be charged for the service \$2 per car; otherwise the service is to be free.

3501. The power of Congress to regulate interstate commerce is not hampered by contracts made by individuals. *L. & N. R. R. Co. v. Mottley*, 219 U. S., 467. A corporation can not disable itself by contract from the performance of public duties and thereby make public accommodation or convenience subservient to its private interests. *Gibbs v. Consolidated Gas Co. of Baltimore*, 130 U. S., 398.

3502. The question of detention is one that must be worked out by itself, and the advantages of reconsignment can not be thrown away in order to avoid abuses that can be remedied in other ways.

Fairmont Creamery Co. v. A., T. & S. F. Ry. Co. (28 I. C. C., 661.)

3503. Rates for the transportation of fuel oil in carloads from Sugar Creek, Mo., to Omaha, Crete, and Grand Island, Nebr., found to be unreasonable. Reasonable rates prescribed for the future.

Omaha Grain Exchange v. A., T. & S. F. Ry. Co. (28 I. C. C., 664.)

3504. It appearing that certain irregularities and discriminations alleged to exist in connection with the ownership and operation of grain elevators by the carriers serving Kansas City have been removed since the present complaint was filed; upon motion of defendants, concurred in by complainant, who is satisfied with the proposed basis of future operation by lease, details of which have been filed with the Commission, complaint dismissed without prejudice to any future investigation by the Commission into any or all phases of these matters either upon its own motion or upon complaint.

Molasses rates from Mobile, Ala. (28 I. C. C., 666.)

3505. Proposed rate of 15 cents per 100 pounds on imported blackstrap molasses from Mobile, Ala., to East St. Louis, Ill., and St. Louis, Mo., not having been shown to be in violation of section 3 of the act, the suspension of that rate will be vacated upon its republication in the form suggested by the Commission.

National Syrup Co. v. C. & N. W. Ry. Co. (28 I. C. C., 673.)

3506. Rate on glucose of 23½ cents per 100 pounds from Chicago, Ill., to St. Joseph, Mo., found unreasonable and rate of 18½ cents prescribed for the future.

Chicago Switching Charges. (28 I. C. C., 677.)

3507. Proposed increase in rates on interstate shipments of coal from Chicago, Ill., to Ravenswood, Ill., and reduction of amount of absorption on such shipments by line carriers found not to be justified and suspended tariffs required to be withdrawn.

Omaha Grain Exchange v. C., R. I. & P. Ry. Co. (28 I. C. C., 680.)

3508. Upon complaint against one carrier and against the rates on grain from Omaha, Nebr., to certain of its stations in Oklahoma: *Held*, That the Commission will not fix a uniform differential basis, Omaha over Kansas City, to all Oklahoma destinations.

3509. Specific rates complained of not found to be unreasonable or unjustly discriminatory.

Minneapolis Brewing Co. v. A., T. & S. F. Ry. Co. (28 I. C. C., 688.)

3510. Upon the facts of record in this case, the minimum-charge rule of carriers parties to western trunk line circulars, in its application to shipments of returned empty beer packages, not found to be unreasonable.

Ludowici-Celadon Co. v. A. C. L. R. R. Co. (28 I. C. C., 693.)

3511. Defendant's rule providing that agents shall decline to receive shipments of freight "to order," with directions to notify parties elsewhere than at destination points, not found to be unreasonable or otherwise in violation of the act except in form. Rule required to be modified and filed with the Commission, if it is to be continued.

Port Arthur Rice Milling Co. v. T. & F. S. Ry. Co. (28 I. C. C., 697.)

3512. Charges collected for the transportation of certain carload shipments of clean rice from Lake Charles, La., to Port Arthur, Tex., found to have been in accordance with the lawful published rate. Complainant dismissed.

Mercantile Lumber & Supply Co. v. St. L. S. W. Ry. Co. (28 I. C. C., 701.)

3513. There was no published through rate for the transportation of hewn oak ties from Catron, Mo., to Chicago, Ill. Charges assessed, based on the sum of the intermediate rates, one factor of which was not on file with the Commission, found to have been unreasonable. Reparation awarded.

Ohio Iron & Metal Co. v. C., M. & St. P. Ry. Co. (28 I. C. C., 703.)

3514. Certain demurrage and other charges incident to the transportation of two carloads of scrap iron from Milwaukee, Wis., to Portsmouth, Ohio, found not to have been due to misrouting by defendants, or otherwise in violation of law. Complaint dismissed.

Marshall Oil Co. v. C. G. W. R. R. Co. (28 I. C. C., 707.)

3515. Rate of 22 cents per 100 pounds for the transportation of petroleum and its products from Marshalltown, Iowa, to Kansas City, Mo., found unreasonable to the extent that it exceeds 17 cents. Reparation awarded.

Lumber rates from points in Arkansas, Louisiana, Missouri, Oklahoma, and Texas, also from Memphis, Tenn., to points in Iowa and other states. (29 I. C. C., 1.)

3516. Proposed increased rates on lumber from southwestern points to points in northern states found to have been justified and order of suspension vacated except as to rates on yellow pine and hardwood lumber to Sioux City, Iowa, when from points on the Kansas City Southern and St. Louis & San Francisco Railroads.

Rock Spring Distilling Co. v. I. C. R. R. Co. (29 I. C. C., 18.)

In a previous decision, 27 I. C. C., 54, the Commission found that the rates on cattle from East St. Louis to Owensboro, Ky., should not exceed 15 cents per 100 pounds, with a minimum weight of 20,000 pounds; from Chicago, \$32 per car. These rates were established by the defendants, effective July 15, 1913. A rehearing was granted upon petition of the carriers who sought to establish the propriety of a rate of \$45 per car from East St. Louis and a rate of 25 cents per 100 pounds, minimum weight 20,000 pounds, from Chicago. *Held:*

3517. That with respect to the rate from East St. Louis the Commission adheres to the principle announced in the case of the *Alton Board of Trade v. C. & A. R. R. Co.*, and *Fourth Section Application No. 1952 of the L. & N. R. R. Co.*, 28 I. C. C., 589, to the effect that a rate of \$45 per car from East St. Louis to Owensboro, a distance of 204 miles, does not bear a proper relation to the rate of 15 cents per 100 pounds, minimum weight 20,000 pounds, via the short line to Louisville. The order of the Commission in the original case is not changed in this regard.

3518. That the rate of \$32 per car from Chicago to Owensboro should be changed to 18 cents per 100 pounds, minimum 20,000 pounds, plus \$2 per car bridge toll, which is the fifth-class rate between these points.

Southwestern Missouri Millers' Club v. St. L. & S. F. R. R. Co. (29 I. C. C., 28.)

3519. Rates on grain and grain products from mills in southwestern Missouri, northwestern Arkansas, northeastern Oklahoma, and southeastern Kansas to Memphis, Tenn., found not unreasonable in themselves or unjustly discriminatory.

3520. Proportional rate on wheat from Kansas City, Mo., to Memphis, Tenn., does not unjustly discriminate against the territory in question.

3521. Contention of complainant in its brief that rates on grain and grain products from the territory in question to points in the southeast are unduly prejudicial as compared with rates to the southeast from other points located upon all sides was not properly presented in the record and will not be considered in this proceeding.

New Orleans Board of Trade v. I. C. R. R. Co. (29 I. C. C., 32.)

3522. Upon failure of proof of damage as a result of discrimination found by the Commission in *New Orleans Board of Trade v. I. C. R. R. Co.*, 23 I. C. C., 465, claim for reparation dismissed.

3523. Nothing in the act to regulate commerce warrants a presumption that a complainant has been damaged by some violation of the act.

3524. Mere proof of specific shipments made and the amount for which reparation is sought does not make out a prima facie case when a discrimination in rate or service is the basis of complaint.

3525. The *fact* of damage as well as the *amount* of damages claimed must be established and that by such evidentiary facts as would be required to sustain such a recovery before a court of law.

Rates on grain and grain products to Texarkana, Ark. (29 I. C. C., 35.)

3526. Following the attempted cancellation of proportional rates on grain and grain products from certain interior milling points in southern Illinois to Texas points, respondents herein sought to withdraw proportional rates from interior milling points in southern Illinois and southeastern Missouri to Texarkana, Ark. The proportional rates to Texas having been restored and the present record suggesting no reason for independent treatment of the rates to Texarkana or for different action than was taken in the former case; *Held:* That respondents have not borne the burden of proof and that the suspended schedule should be canceled.

Lumber rates through Ohio River crossings. (29 I. C. C., 38.)

3527. Cancellation of through routes involving a three-line haul in favor of other two-line routes between the same points under the same rates justified, and upon the facts shown of record and described in the report found not to be prejudicial to shippers.

Emigrant movables to South Dakota. (29 I. C. C., 40.)

3528. Proposed increased rates on emigrant movables from Chicago, Ill., St. Paul, Minn., and other points, to points in South Dakota, held not to be unreasonable, but this case held open to permit carriers to remove certain discrimination found to exist in connection with rates on emigrant movables to eastern South Dakota and eastern Nebraska.

Condensed milk rates between points in Illinois and Wisconsin. (29 I. C. C., 43.)

3529. Suspended tariff publishing rates on condensed milk between points in Illinois and Wisconsin should be so amended as to include condensed milk in barrels, half barrels, or kegs under the commodity rate on milk in cans, boxed.

Lake-and-rail butter and egg rates. (29 I. C. C., 45.)

3530. Respondents, operating boats on the Great Lakes between Buffalo, N. Y., and their western termini, recently issued supplements to their tariffs adding to the list of commodities not accepted by them for shipment, butter, eggs, fresh meats, and live or dressed poultry; such supplements were suspended pending investigation as to the reasonableness of these prohibitions: *Held*, That the request of protestants made upon respondents to provide transportation for butter, eggs, and dressed poultry is reasonable, and that their refusal to provide such transportation in the past for such articles was unduly prejudicial and disadvantageous.

Adams & Sons Co. v. V., S. & P. Ry. Co. (29 I. C. C., 52.)

3531. Upon complaint alleging unjust discrimination against complainants and undue preference to competitors in the application and operation of transit rules: *Held*, That it is unjustly discriminatory against complainants for defendant to assess switching charges against complainants at Monroe, Gibbsland, Ruston, and Sibley, La., while according a like service without charge to complainant's competitors at Vicksburg and Jackson, Miss.

Richmond-Eureka Mining Co. v. E. N. Ry. Co. (29 I. C. C., 62.)

3532. Rate of \$2.35 per net ton on ore of a value not in excess of \$15 per ton from Eureka, Nev., to Palisade, Nev., when destined to Midvale, Utah, not found unreasonable and the establishment of joint through rates from Eureka to Midvale not found justified upon the facts of record.

3533. The line between Eureka and Ruby Hill, Nev., having been partially destroyed and the duty of the owner to restore and operate the same, upon the facts of record, not being a question for determination by this Commission, the establishment of through rates from Ruby Hill to Midvale not considered. Complaint dismissed.

Santa Rosa Traffic Asso. v. Southern Pacific Co. (29 I. C. C., 65.)

3534. The opinion in the original report herein, 24 I. C. C., 46, declaring that the maintenance of terminal rates to Santa Clara, San Jose, and Marysville, Cal., in the absence of similar rates to Santa Rosa, Cal., was unduly prejudicial to Santa Rosa, and requiring defendants to remove the discrimination, affirmed on rehearing.

3535. Petition of intervener Fresno Traffic Association dismissed for want of proof.

Fabrication-in-transit charges. (29 I. C. C., 70.)

Respondents herein attempted to increase the charge for fabrication-in-transit service at points in central freight association territory from 1½ to 2½ cents per 100 pounds, and in some instances to change the rules governing transit. Protestants and intervener ask that respondents publish a more inclusive list of iron and steel articles which may enter into the fabricated product, extend the time limit of transit, and, under proper cancellation of inbound billing, permit substitution. *Held*, That—

3536. Cost figures submitted by respondents as corrected do not justify the proposed increase in the charge for the fabrication-in-transit service. Rate

comparisons show that the increase can not be permitted to become effective if a substantial rate equality—one of the chief purposes of transit—at fabricating points is to be maintained. Rather than permit a variance in the charge for the stoppage in transit at the many fabricating points, the additional expense incident to the service, if not at present adequately covered, may be reflected in the general level of rates on the article which enjoys the service. Respondents required to cancel the tariffs under suspension and to maintain for the statutory period the present charge of $1\frac{1}{2}$ cents per 100 pounds.

3537. Under section 6 of the act it is unlawful for a common carrier to allow substitution without clearly specifying in its tariffs the right to substitute.

3538. Taken collectively, the rate, the transit service specified, and the regulations governing it are a unit, representing definite duties and obligations.

3539. Under the circumstances of this case respondents should change their transit rules and regulations so as to specifically provide for substitution of material drawn from the lines of different carriers and different territories, and should provide for proper accounting, and the cancellation of inbound billing to cover outbound shipments, local consumption, waste, or shrinkage; frequent checking of unfabricated and fabricated material with billing on hand; and the cancellation of billing in excess of the fabricated and unfabricated material on hand, requiring the use of the oldest billing for that purpose.

3540. Respondents' tariffs should be uniform in their provisions with regard to substitution.

3541. The list of articles upon which fabrication in transit is permitted should include all articles that are necessary for the fabrication of sections of bridges and buildings, and should be made uniform in respondents' tariffs.

3542. Uniformity should be established in the time limit within which to fabricate under the transit rate.

3543. The fundamental basis and chief justification of transit is the equalization of rates and the prevention of discriminations which could not otherwise be avoided.

3544. Transit involves rate difficulties peculiarly its own. These difficulties and the confusion which frequently results therefrom obscure the publication of rates and deprive tariffs of one of their most essential qualities, namely, clearness. Intricacies of this nature should be most thoroughly analyzed and weighed before transit is extended into new fields. To deal with transit as an established service in a limited field is one thing; to follow a policy of its indefinite extension is another.

3545. Ordinarily transit can only be accorded products which move at the same or very nearly the same rates as the material from which they were made.

3546. It is reasonable to withhold transit from a product that is essentially different from the raw material.

3547. The Commission can not look with favor upon an extension of transit to include additional processes unless it is clearly shown to be necessary in order to avoid discrimination, promote commerce, and effect other proper and lawful results.

New York Hay Exchange Asso. v. L. V. R. R. Co. (29 I. C. C., 90.)

3548. Unlawful demurrage charges found to have been assessed upon certain carload shipments of hay held by defendant at Jersey City, N. J.

3549. Embargo notices of the kind here in question should be posted at the terminal to which they apply.

Eastman, Gardiner & Co. v. I. C. R. R. Co. (29 I. C. C., 94.)

3550. This complaint involves the last of the reparation claims that were filed with the Commission following its decision in the *Tift* and *Central Yellow Pine Association* cases, which involved rates on yellow-pine lumber from southeastern producing territory when consigned to the Ohio River locally, and for beyond. All the other claims, several hundred in number, were paid by the carriers on basis of 67 cents on the dollar under a compromise agreement entered into between carriers and claimants and approved by this Commission upon request of both parties. The issue here is whether this claimant, with the others, accepted that agreement; *Held*, That defendants are justified in their contention that claimant did, by his actions, personally and through his attorney, accept the agreement, at least impliedly. As we assume that claimant stands ready to do what is equitable under the circumstances, as viewed by the Commission, and that he will accept the amount tendered upon this expression of its views, no further findings or order are deemed to be necessary in the case.

Danciger v. P., C., C. & St. L. Ry. Co. (29 I. C. C., 99.)

3551. Rate charged for the transportation of a carload of damaged overalls and a carload of damaged gloves from Dayton, Ohio, to Superior, Wis., not found to have been unreasonable. Complaints dismissed.

Lee v. St. L. S. W. Ry. Co. (29 I. C. C., 101.)

3552. Charges collected by defendant for the transportation of a mixed carload of hogs and cattle from Bradley, Ark., to East St. Louis, Ill., found unreasonable. Reparation awarded.

Maier & Co. v. Southern Pacific Co. (29 I. C. C. 103.)

3553. Rate of 90 cents per 100 pounds for the transportation of sugar in carloads from Los Angeles and Los Alamitos, Cal., to Benson, Ariz., found unreasonable and in violation of the fourth section of the act, as amended June 18, 1910. Application for relief from the provisions of the fourth section of the act denied.

Rules and regulations governing concentration of cotton and cotton linters at points in the State of Arkansas. (29 I. C. C., 106.)

3554. Under the suspended tariff rule, cotton and cotton linters from points in Arkansas may be concentrated at Little Rock, Pine Bluff, Camden, and Texarkana and reshipped to interstate destinations and the benefit of low inbound rates to the concentration point secured, provided the outbound shipments are not routed by the shipper, except as to terminal line at destination; *Held*, That such a rule is in contravention of section 15 of the act and should be canceled.

3555. The offer of comparatively low any-quantity rates and considerations of economy of car supply and expedition in handling held to justify maintenance of tariff rule giving shippers the option of directing routing via established routes upon payment of higher local rates, or of availing of special low inbound rates limited in application to traffic the routing of which from the concentration point is left to the carrier or to traffic routed by the shipper via respondent's long-haul junctions or routes specifically named in the tariff.

Norcross Brothers Co. v. L. & N. R. R. Co. (29 I. C. C., 109.)

3556. Shipment billed as finished marble, agreed to be of value of 40 cents per cubic foot, and upon which there was assessed a rate of 36½ cents per 100 pounds, applicable on that commodity at the agreed value stated, found to be sand-rubbed marble, which in defendants' tariffs is included in the description of rough marble and under an agreed value of 20 cents per cubic foot is entitled to a rate of 23½ cents per 100 pounds. Reparation awarded.

3557. Carriers desiring to establish different rates on a commodity, based on the values of different classes or kinds thereof, or dependent not upon value but upon release to a certain amount of the carriers' liability for loss and damage, should make clear the distinction. In the first case there should be provision in the tariffs for statement in the bill of lading of the true value of the commodity, misstatement as to which would be a misdescription of the article shipped; and in the latter for exercise of choice of rates, by means of a statement in the bill of lading, signed by the shipper, specifying a value stated in the tariffs at which it is desired to ship.

Buffalo, Rochester & Pittsburgh Ry. Co. v. Pennsylvania Co. (29 I. C. C., 114.)

3558. Defendant refuses to transport for complainant interstate carload shipments of freight from and to industries on defendant's lines within the switching limits of the city of New Castle, Pa., while it transports similar traffic for three other carriers serving the same point; *Held*, That this discrimination against complainant is undue and unlawful.

Stewart-Greer Lumber Co. v. St. L., I. M. & S. Ry. Co. (29 I. C. C., 120.)

3559. Rate of 14 cents per 100 pounds on hardwood lumber in carloads from Mangham, Baskin, and Winnsboro, La., to New Orleans, La., and points taking the same rates, for export, not found unreasonable. Application under the fourth section of the act for authority to maintain a lower rate on hardwood lumber for export from Rayville, La., to New Orleans, La., than from intermediate points denied.

Michigan Seating Co. v. G. T. W. Ry. Co. (29 I. C. C., 123.)

3560. Defendants' rating of three times first class applicable to shipments of fiber furniture in less than carloads from Jackson, Mich., to points in other states where rates are governed by the official classification found unreasonable and rating of double first class prescribed for future.

Schenck v. N. & W. Ry. Co. (29 I. C. C., 125.)

3561. Tariff rule of defendant Norfolk & Western Railway Company providing that freight charges will be assessed on weights ascertained at its regular weighing stations, and that the rule will not be departed from, found to be unreasonable.

3562. Case held open to afford defendants an opportunity to file with the Commission modified rules for the weighing of coal in carloads and for the assessment of transportation charges thereon, in accordance with the principles announced in this report.

Oklahoma Traffic Asso. v. A., T. & S. F. Ry. (29 I. C. C., 129.)

3563. Rates on iron and steel articles in carloads from Pittsburgh, Pa., Chicago, Ill., Birmingham, Ala., and points taking the same rates, to Oklahoma City, Okla., found unduly discriminatory and unjustly prejudicial with respect to rates on the same articles to other points in the state of Oklahoma.

Rates on crushed stone from McCook and Thornton, Ill., to stations in Indiana and Michigan. (29 I. C. C., 136.)

3564. By express provision of the amendment of June 18, 1910, to section 15 of the act to regulate commerce, the burden of justifying an advance in rate made after January 1, 1910, is placed upon carrier.

3565. The fact that contracts have been entered into on the basis of a lower rate will not of itself preclude the raising of such rate.

3566. Evidence here held not to justify increase in rate made under suspended tariff.

In the matter of the receiverships of the St. Louis & San Francisco R. R. Co. and the Chicago & Eastern Illinois R. R. Co. (29 I. C. C., 139.)

3567. In response to resolutions of the Senate, the facts and circumstances concerning the purchase of the Chicago & Eastern Illinois and the St. Louis, Brownsville & Mexico railroads by the St. Louis & San Francisco Railroad Company, with other details, are submitted in the report, without expressions of opinion or recommendations by the Commission.

Industrial Railways Case. (29 I. C. C., 212.)

3568. Upon the evidence and testimony adduced of record herein, it is *Held*, That the service by line carriers in official classification territory beyond a reasonably convenient point of interchange, between their rails and the tracks of industries, is a shippers' service, a part of the industrial operations of the plant, and not a service of transportation; and that the performance of such services by the line carriers without charge in addition to the rate, and the allowances paid by them therefor to industries, or their plant railways, for performing the service for themselves, are unlawful rebates, in fact and in effect, and give undue and unreasonable preferences and advantages to the industries so favored and work undue and unreasonable prejudice and disadvantage to shippers in the same line of business who do not receive any such allowances or the benefit of any such services.

3569. Upon the evidence and testimony adduced of record herein, it is further *Held*, That the admission of industrial lines to the benefit of the modified per diem agreement results in many cases in a substantial addition to their revenues that accrue directly to the benefit of the industry and is an undue, unreasonable, and unlawful preference and advantage to the industry.

3570. It is further *Held*, That the delivery of a car by a line carrier upon the interchange track is a delivery to the industry itself, and that the elimination of demurrage, under the present practices of the line carriers, as a transportation charge against industries with plant railways claiming to be common carriers, results in undue, unreasonable, and unlawful preferences and advantages to such industries and works an undue, unreasonable, and unlawful prejudice and disadvantage to shippers not enjoying the benefit of such arrangements.

[NOTE.—The summary of points decided by the Commission, as set forth in this appendix, does not include cases decided after October 31, 1914. Attention is directed to the Commission's supplemental report in this proceeding, adopted November 2, 1914, and appearing in 32 I. C. C. at page 129, wherein the findings in the original report were modified in accord with principles announced by the Supreme Court in the *Tap Line cases*, 234 U. S., 1.]

Charles Weiss & Co. v. C., H. & D. Ry. Co. (29 I. C. C., 374.)

3571. Charges for the transportation of 20 sacks of stearic acid from Ivorydale, Ohio, to Sheboygan Falls, Wis., found to have been unreasonable to the

extent that they exceeded charges that would have accrued on basis of the aggregate of the intermediate rates contemporaneously in effect. Reparation awarded.

Wichita Board of Trade v. A. & S. Ry. Co. (29 I. C. C., 376.)

3572. It appearing that the basis of complaint is discrimination, in that Kansas City, Mo., is a so-called rate-breaking point while Wichita is a transit point for shipments of grain and grain products; *Held*, That upon showing herein the Commission is not at this time prepared to make an order disturbing existing adjustment of rates.

3573. Power of Commission to establish through route is limited by act to regulate commerce. Complaint dismissed.

Alexandria, Va., switching charges. (29 I. C. C., 381.)

3574. Proposed increase in the switching charges on coal and coke by the Southern Railway Company from the Potomac yard, near Alexandria, Va., to Alexandria proper, not justified, but a maximum charge of 20 cents per net ton established for the future.

Commercial Club of Terre Haute v. V. R. R. Co. (29 I. C. C., 383.)

3575. Complaint alleges unreasonableness *per se* and undue discrimination in the rate adjustment between Terre Haute, Ind., and the Missouri River and territory west thereof, the allegation of undue discrimination being based primarily upon the fact that the Chicago basis of rates is extended to Milwaukee and other Wisconsin points, and to Gary, Ind., Danville, Ill., and certain other Indiana and Illinois points, while it is denied to Terre Haute; *Held*, That the circumstances and conditions affecting the transportation to and from the other points named are substantially dissimilar to those obtaining with respect to the Terre Haute traffic, and that the present adjustment between Terre Haute and this western territory has not been shown either to be unduly discriminatory or unreasonable *per se*.

3576. Case largely controlled in principle by *Indianapolis Freight Bureau case*, in which undue discrimination was alleged against Indianapolis in favor of Chicago. (16 I. C. C., 56; 23 I. C. C., 195.)

International Agricultural Corporation v. L. & N. R. R. Co. (29 I. C. C., 391.)

3577. In awarding reparation the Commission never attempts to determine, in cases like this, in what proportion payment should be made by the various carriers participating in the transportation, but awards for a gross sum against all the carriers.

3578. If a consignor brings complaint alleging that a given rate is unreasonable and asking for reparation with respect to a shipment specified, and if upon hearing the Commission finds that the rate is unreasonable and that reparation should be awarded with respect to the shipment in question, but that the freight money was paid by the consignee and not by the complainant, more than two years having elapsed, no recovery of reparation can be had by such consignee.

3579. Rate of \$3.25 per ton on sulphuric acid in carloads from Copperhill, Tenn., to Savannah, Ga., was reasonable at the time defendants were exacting \$7.50 per ton, and reparation should be awarded accordingly.

3580. If carriers actually collect charges to which they are not entitled, they should pay interest for the use as well as refund the principal itself.

Board of Railroad Commissioners of Iowa v. C., R. I. & P. Ry. Co. (29 I. C. C., 396.)

3581. Complaint is made that cars for the transportation of grain are distributed at stations and between shippers at stations throughout the state of Iowa during periods of car shortage upon an inequitable basis. Some shippers are satisfied with the continuance of the present practice which distributes cars, generally speaking, equally between shippers for business in sight ready for shipment, combining in the plan the effort to keep all elevators at a station open for business by giving to the closed elevator such reasonable preference in cars as may tend to accomplish that purpose. Other shippers who are shareholders in cooperatively run elevators advocate the substitution for the present practice of a rule which will distribute cars between shippers or elevators according to their comparative past volume of business over a given period; *Held*, That the situation is one that can not be dealt with by any fixed, arbitrary, and inelastic regulation and that the decision must, in the nature

of the case, finally rest in the exercise of a sound discretion in the station agent as to what is right and proper under the circumstances of each case.

3582. Distinction drawn between the distribution of cars for this grain traffic and the apportionment of cars for coal under fixed mine ratings.

Pacific Creamery Co. v. Southern Pacific Co. (29 I. C. C., 405.)

3583. Present rates on fuel oil, refined petroleum, and engine distillate from producing points in California, Kansas, Louisiana, and Texas to all points in Arizona found unjust and unreasonable.

3584. Defendants may either establish the blanket rates prescribed in the report or may divide Arizona into 50-mile zones, between parallel lines extending north and south, for which rates are prescribed in the report.

3585. The Pacific Creamery Company was damaged on account of unreasonable rates on fuel oil from California producing points to Creamery and Gilbert, Ariz., and leave is given to amend statement of shipments so as to include such as have been made during pendency of these proceedings and up to time rate prescribed herein is made effective.

Montana Pass Situation. (29 I. C. C., 411.)

3586. Certain practices of the Montana carriers respecting free passes criticized and conditions in Illinois commented upon.

Alexander H. Erickson Co. v. C., M. & St. P. Ry. Co. (29 I. C. C., 414.)

3587. Defendants' inland proportion of through rates on "all commodities" from Chicago, Ill., via Vancouver, B. C., on traffic destined to points in Australia exceeds the inland proportion of through rates from the same point of origin to points in Japan, China, and the Philippine Islands; *Held*, That the different export rates are not shown of record to result in undue prejudice or disadvantage to complainant. Complaint dismissed.

In the matter of bills of lading. (29 I. C. C., 417.)

Carriers and shippers in official and western classification territories, in order to prevent unjust discrimination, have joined in a request for the Commission's approval of a waiver for a specified period of the four-month limitation within which claims for loss, damage, or delay must be presented, as contained in the bills of lading referred to in tariffs on file with the Commission; *Held*, That—

3588. The Commission has no authority to order carriers to disregard their tariffs, nor does it feel justified in acquiescing in the adjustment of matters brought into the condition here presented by reason of disregard of tariff provisions, except from the necessity of a situation like this, when to do otherwise must leave uncorrected grossly unjust and widespread discriminations.

3589. For reasons given in the report, the carriers should deal with all claims of this character upon their merits in good faith and without discrimination as to this rule regarding the period of time within which such claims should be presented.

3590. Reasonableness of such period of limitation not passed on.

Duluth, Minn., log rates. (29 I. C. C., 420.)

3591. Proposed increased rates on logs from points in Minnesota on the main line of the Great Northern Railway to Superior, Wis., not justified. Increase justified in part on the strength of decision in *Pulp & Paper Mfrs. Traffic Assn. v. C., M. & St. P. Ry. Co.*, 27 I. C. C. 83, but subject to further consideration if, in a proceeding now pending, the decision in that case is modified.

Arizona Corporation Commission v. A. & N. M. Ry. Co. (29 I. C. C., 424.)

3592. The complaint in 5423 attacks as unreasonable and unduly prejudicial rates on flour and other grain products from Kansas, Oklahoma, Nebraska, Colorado, Iowa, and Missouri to points in Arizona. As illustrative of the adjustment, the rate from Hutchinson, Kans., to Phoenix is \$1.12 per 100 pounds. In Investigation and Suspension Docket No. 266 respondents propose to increase the rate on wheat from the same territory of origin as that involved in 5423 from 58 cents to \$1 per 100 pounds. To California terminals from Hutchinson the rate on wheat is 58 cents and on flour 65 cents. Rates on flour involved in 5423 held to be unreasonable and unduly prejudicial to the extent that they exceed the defendants' contemporaneous rates on flour to the terminals, and proposed increase in the rate on wheat in Investigation and Suspension Docket No. 266 held not to be justified.

Youngstown Sheet & Tube Co. v. P. & L. E. R. R. Co. (29 I. C. C., 428.)

3593. Rate of 70 cents per net ton for the transportation of bituminous coal in earloads from the Pittsburgh, Pa., coal district to the Youngstown or Valleys district of eastern Ohio and western Pennsylvania, not found unreasonable or unjustly discriminatory. Complaint dismissed.

Board of Trade of Chicago v. A., T. & S. F. Ry. Co. (29 I. C. C., 438.)

3594. The failure of the five defendant carriers to absorb the switching charges on grain delivered to Chicago industries off their line while absorbing such charges in the cases of other commodities does not constitute unlawful discrimination. Discrimination under the third section to be undue and unlawful must ordinarily be such that the prejudice arising out of it against one party is a source of advantage to the other alleged to be favored; *Railroad Commission of Kentucky v. L. & N. R. R. Co.*, 10 I. C. C., 173, 190; *Wholesale Fruit & Produce Assn. v. A., T. & S. F. Ry. Co.*, 27 I. C. C., 596; and generally a competitive relation between the commodities in the cases of which discrimination is alleged is essential. *Miner v. N. Y., N. H. & H. R. R. Co.*, 11 I. C. C., 422; *Board of Trade of Chicago v. C. & A. R. R. Co.*, 27 I. C. C., 530, 535.

3595. The question as to whether or not the defendants' line charge for shipments of grain to Chicago is unreasonable to the extent that it does not include the switching charge is not for determination in this proceeding. This is true also as to the issue of discrimination between localities, namely, between Chicago and competitive grain markets such as Peoria and Pekin, and between grain-shipping points located on the lines of the defendant roads and cross-country grain-shipping points on the lines of the roads which absorb the switching charges. Issues not clearly raised in the pleadings can not be determined by us. *Commercial Club of Omaha v. C., R. I. & P. Ry. Co.*, 6 I. C. C., 647; *Sinclair & Co. v. C., M. & St. P. Ry. Co.*, 21 I. C. C., 490, 494.

Crowdus Brothers v. A., T. & S. F. Ry. Co. (29 I. C. C., 449.)

Upon complaint alleging that defendants' rates for the transportation of hides and pelts from points in Oklahoma to St. Louis, Mo., East St. Louis and Chicago, Ill., Milwaukee, Wis., and other points were and are unjust, unreasonable, and unduly prejudicial to complainants; *Held*:

3596. That rates on hides and pelts from and to the points herein involved should not exceed the rates contemporaneously in effect on packing-house products.

3597. That the rates complained of are and have been unjust, unreasonable, and unduly prejudicial from and since December 11, 1911, on which date our findings were promulgated in *Investigation of Alleged Unreasonable Rates on Meats*, 22 I. C. C., 160.

3598. That complainants are entitled to an award of reparation on shipments made subsequent to the date named.

Gadow v. C., St. P., M. & O. Ry. Co. (29 I. C. C., 457.)

3599. Withdrawal by defendants of transit privilege on grain at Barton, Wis., pending complainant's refusal to permit inspection of his transit accounts at that point, found to have been in harmony with the tariff requirements, and not unreasonable or otherwise unlawful. Complaint dismissed.

Kansas-California flour rates. (29 I. C. C., 459.)

3600. To California terminals from Hutchinson, Kans., using Hutchinson as a typical point in the territory of origin involved in this proceeding, the present rate on wheat in earloads is 58 cents and on flour in earloads 65 cents. It is proposed by the tariffs under suspension herein to increase the flour rate to 75 cents. Proposed advance found to be not justified and suspended tariffs directed to be canceled.

Swift & Co. v. P. R. R. Co. (29 I. C. C., 464.)

3601. Defendants' rates on coarse salt in bulk from Cuylerville, N. Y., to Chicago Junction, Ohio, found unreasonable to the extent that it exceeded 78 per cent of the New York-Chicago rate on that commodity, and the lower rate basis prescribed for the future.

3602. Present through route for coarse salt in bulk from Cuylerville to Chicago Junction through Akron, Ohio, required to be maintained and a joint rate in connection therewith not exceeding 11 cents per 100 pounds to be established. Reparation awarded.

3603. Based on prior decisions of the Commission, reparation disallowed on salt shipments from Cuylerville to Port Huron and Delray, Mich.

Botsford & Barrett v. P. R. R. Co. (29 I. C. C., 469.)

3604. Defendant's charge of 4 cents per 100 pounds for switching grain in carloads at Bellefonte, Pa., found unreasonable to the extent that it exceeded \$5 per car. Reparation awarded.

Green Brothers Box & Lumber Co. v. C. & N. W. Ry. Co. (29 I. C. C., 472.)

3605. Rate of 13 cents per 100 pounds for the transportation of lumber trimmings in carloads from Odanah, Wis., to Rockford, Ill., found to have been unreasonable to the extent that it exceeded 10.5 cents. Reparation awarded.

Atlanta Freight Bureau v. N., C. & St. L. Ry. (29 I. C. C., 476.)

The complaint in the Western case, Docket No. 4461, alleges that the adjustment of rates from Cincinnati is unjustly preferential to Birmingham and unduly prejudicial to Atlanta, and also that the rates from Cincinnati to Atlanta are in themselves unjust and unreasonable; the complaint in the Eastern case, Docket No. 4637, alleges that the adjustment of rates from the eastern port cities of Baltimore, Philadelphia, New York, etc., and from the interior points basing on them, whether via all-rail lines or via ocean-and-rail lines, is unjustly preferential to Chattanooga, Knoxville, and Nashville, and unduly prejudicial to Atlanta; and also that the rates from the points of origin described are in themselves unjust and unreasonable; violation of the fourth section is alleged in the maintenance of ocean-and-rail rates to certain of the Tennessee cities less than the corresponding rates to Atlanta, *Held:*

3606. That the contention as to unjust discrimination and undue prejudice in the maintenance of lower scales of rates from the Ohio River crossings to Birmingham than to Atlanta is not established, except as to the rates from Cincinnati, which should be put on a parity to both destinations.

3607. That the present adjustment of rates from the eastern port cities and interior points to Atlanta, whether all-rail, ocean-and-rail, or rail-ocean-and-rail, is not found to be unreasonable or to work undue discrimination in favor of Chattanooga, Knoxville, or Nashville.

3608. No reductions are now ordered or suggested in the scale of rates applying from Cincinnati to Atlanta; but in changing the rates from Cincinnati to comply with the Commission's opinion in the fourth section cases, the necessity for a parity in the rates to Atlanta and Birmingham should be kept in mind. The present parity of rates from the several Ohio River crossings to Atlanta is not disturbed, nor is the scale of differentials from the lower Ohio River crossings to Birmingham. A revision of the present flat differential of 4 cents on traffic from Memphis is suggested.

3609. In other respects the complaints are dismissed.

In the matter of freight bills. (29 I. C. C., 496.)

3610. The form of freight bill approved by shippers and carriers in conference with representatives of the Commission approved and its general use by carriers recommended.

Pardee Works v. C. R. R. Co. of N. J. (29 I. C. C., 500.)

3611. Rates on scrap iron and steel billets from New England territory to Perth Amboy not found to be unreasonable or unduly preferential.

Protection of potato shipments in winter. (29 I. C. C., 504.)

3612. A tariff that offers a protected service, in special equipment, for shipments of potatoes in winter at the risk of the carrier for weather damages and at the same time permits the shipper, at a lower rate and at his own risk, to furnish his own protection, found to be free from reasonable objection.

St. Paul and Puget Sound accounts. (29 I. C. C., 508.)

3613. Serious irregularities in the accounts of the Chicago, Milwaukee & St. Paul Railway Company and of its subsidiary, the Chicago, Milwaukee & Puget Sound Railway Company, described, criticized, and condemned.

Emlenton petroleum rates. (29 I. C. C., 519.)

3614. The extension of the respondent's higher Pittsburgh rate on petroleum and its products to Emlenton and other points north of Pittsburgh held to be a proper readjustment in view of the fact that shipments from these points to

Wisconsin and Michigan destinations now pass through Pittsburgh at lower rates, in violation of the fourth section. Such violations can not be justified when the points so favored are beyond the competitive or other influences that control the rates from other points on the respondent's line.

Rates on tomatoes from Jacksonville, Fla., to Kansas City, Mo., and other points. (29 I. C. C., 522.)

3615. Proposed increase in the proportional rates from Jacksonville, Fla., to destinations west of the Mississippi River, applicable on tomatoes originating at points on the Florida East Coast Railway, not justified.

Standard Oil Co. v. Pennsylvania Co. (29 I. C. C., 524.)

3616. Rate charged by defendants for the transportation of a carload of iron pipe fittings from Martinsville, Ill., to Whiting, Ind., not found to have been unreasonable. Complaint dismissed.

3617. Defendants' fourth section application asking authority to continue rates for the transportation of iron pipe fittings in carloads from East St. Louis, Ill., to Whiting, Ind., which are lower than rates concurrently in effect on like traffic from Martinsville, Ill., and other intermediate points, denied.

Miller v. A. C. L. R. R. Co. (29 I. C. C., 526.)

3618. Defendants' tariff provides that they will not redeem any form of passenger transportation which has been mislaid, lost, destroyed, or stolen, and that requests for redemption of unused passenger tickets will be honored only when such requests are accompanied by the unused transportation: *Held*, That these conditions are not unreasonable.

State of Iowa v. A., T. & S. F. Ry. Co. (29 I. C. C., 530.)

3619. Under the findings of the original report herein, 28 I. C. C., 47, class rates between trunk line and central freight association territories and the upper Mississippi River crossings are fixed for the future and the basis for the present adjustment of commodity rates is indicated.

State of Iowa v. C., St. P., M. & O. Ry. Co. (29 I. C. C., 536.)

3620. The schedule of proportional class rates submitted by the defendant carriers, under the findings of our original report herein, 28 I. C. C., 64, for application west of the Mississippi River on traffic moving between interior Iowa cities and points east of the Indiana-Illinois State line, approved.

Cedar Rapids Commercial Club v C., R. I. & P. Ry. Co. (29 I. C. C., 539.)

3621. Upon the findings of the original report herein, 28 I. C. C., 76, class rates are fixed for the future between Chicago and points in Iowa and the general basis of commodity rates between the same points is indicated.

Colorado Manufacturers' Asso. v. A., T. & S. F. Ry. Co. (29 I. C. C., 544.)

3622. Under the findings of the original report herein, 28 I. C. C., 82, reasonable commodity rates are fixed for the future between Chicago, Mississippi River, and Missouri River rate points on the one hand and Colorado common points on the other.

Rates to North Carolina points. (29 I. C. C., 550.)

3623. Authority should be granted to establish the rates proposed from Ohio River crossings and St. Louis, but the rates proposed from Memphis should be established as proportional rates only, applicable on business originating in territory west of the Mississippi River, and so limited in their application as to prevent increase of discrimination against intermediate points of origin.

Parry & Co. v. P. R. R. Co. (29 I. C. C., 559.)

3624. Charges collected by defendant for the storage of a carload of lumber at Camden, N. J., not found to have been unreasonable or unjustly discriminatory. Complaint dismissed.

Straw rates from stations in Missouri to Alton, Ill. (29 I. C. C., 562.)

3625. Proposed increased rates on straw from Missouri points to Alton, Ill., found reasonable and order of suspension vacated.

Norman Lumber Co. v. L. & N. R. R. Co. (29 I. C. C., 565.)

Complainants allege undue discrimination against Louisville, Ky., in favor of other Ohio River crossings, in the adjustment of inbound and outbound rates

on lumber rebanded at those points on its way from equidistant points in southeastern territory to equidistant points in central freight association territory and from Mississippi valley territory to western termini and trunk-line territory. Louisville's disadvantage is in large measure attributed to the fact that the northern carriers charge a bridge toll which is reflected in the rates from Louisville to points north, while the southern carriers do not add a bridge toll in making rates from producing territory to north-bank Ohio River crossings; *Held, That*—

3626. The question of the absorption of bridge tolls is largely one of policy with the carrier, and it may absorb or not so long as the alternative adopted does not place an undue burden upon a shipper or locality. The southern carriers can not elect to absorb all or part of the bridge toll on traffic to north-bank points if to do so results in the undue prejudice and disadvantage of points on the south bank. The bridge toll may not be absorbed at one crossing and added to the rate at a competitive crossing.

3627. The northern carriers should discontinue the absorption of the switching charges on lumber from Covington and Newport to Cincinnati, or eliminate the bridge toll in the rates from Louisville.

3628. While the present differentials may be proper for western termini and trunk line points within 500 miles of Cincinnati, the rates from Louisville to points over 500 miles from Cincinnati should not exceed the rates from Cincinnati by more than $2\frac{1}{2}$ cents per 100 pounds.

3629. Rates on lumber from equidistant southeastern territory to Louisville should be 1 cent less than those contemporaneously maintained to Cincinnati, New Albany, or other north-bank crossings. Should northern carriers elect to remove the discrimination in favor of Covington and Newport by eliminating the bridge toll in the rates from Louisville, no change will be required in the rates to Louisville from equidistant southeastern points.

3630. Rates from Mississippi Valley territory to Louisville should be $3\frac{1}{2}$ cents less than those contemporaneously maintained to Cincinnati from points within 500 miles of Louisville, and $2\frac{1}{2}$ cents less from points at a greater distance.

3631. On the movement from Mississippi Valley territory to central freight association territory via Cairo and via Louisville it would seem that the disparity in rates via the two crossings is in some instances too great. No reason has been shown why the spread from producing points in the south should not be uniform for the same difference in distances to Cairo and Louisville.

3632. Differentials diminish with the increasing distance and vanish when the mileage on which the differential is based becomes inconsiderable in proportion to the total mileage from basing point to destination. *Williams Co. v. V. S. & P. Ry. Co.*, 16 I. C. C., 482.

Paducah Board of Trade v. I. C. R. R. Co. (29 I. C. C., 583.)

Complainant alleges undue discrimination against Paducah, Ky., in favor of Cairo, Ill., in rates on lumber from Mississippi, Louisiana, and that part of Arkansas which is south of the line of the Chicago, Rock Island & Pacific from Memphis to Little Rock; *Held, That*—

3633. Lumber from the Mississippi Valley does not meet such competition at Cairo as would justify the maintenance of lower rates there than to Paducah from equidistant producing points.

3634. Rates to Paducah from substantially equidistant points in Mississippi and Louisiana east of the river should be no higher than 1 cent below those contemporaneously maintained from the same points to Cairo.

3635. Rates to Paducah from substantially equidistant points in Arkansas and Louisiana west of the river on and south of the line of the Chicago, Rock Island & Pacific from Memphis to Little Rock should be no higher than those contemporaneously maintained from the same points to Cairo.

3636. A carrier can not reserve to itself the long haul if to do so works unduly to the detriment of the shippers.

3637. Cairo is on the north bank of the Ohio River and it is necessary to cross the Ohio in hauling to Cairo from southern producing points. This is an additional service over and above that rendered in hauling to Paducah, which is a south-bank point. Carriers should either charge a bridge toll on traffic in both directions at every Ohio River crossing or not charge it at any crossing. *Norman Lumber Co. v. L. & N. R. R. Co.*, 29 I. C. C., 565.

Paducah Board of Trade v. I. C. R. R. Co. (29 I. C. C. 593.)

Complainant alleges that the rates on potatoes, cabbages, onions, beans, and canned goods from points in central freight association and western trunk line

territories to Paducah, Ky., are unjust, unreasonable, and unduly discriminatory to the extent to which they exceed the rates from the same points to Cairo, Ill.; and that the rates on lumber from Paducah to points in trunk line, central freight association, and western trunk line territories as compared with those from Cairo to the same points are similarly objectionable; *Held*, That—

3638. The rates on potatoes, cabbages, onions, beans, and canned goods from points in the north to Paducah should not exceed those contemporaneously maintained from the same points to Cairo by more than 1 cent per 100 pounds.

3639. The rates on lumber from Paducah to the north should not exceed those maintained from Cairo to the same destinations by more than 1 cent per 100 pounds.

3640. Carriers should either charge a bridge toll on traffic in both directions at every competitive crossing or not charge it at any crossing. *Paducah Board of Trade v. I. C. R. R. Co.*, 29 I. C. C., 583.

Springfield Traffic Bureau v. St. L. & S. F. R. R. Co. (29 I. C. C., 600.)

3641. On allegation that local class rates from St. Louis, Mo., to Springfield, Mo., applicable as proportions of through rates on traffic originating east of the Indiana-Illinois State line, in central freight association, southeastern, and Carolina territories, are unreasonable and unjustly discriminatory as compared with class rates from St. Louis, Mo., to Kansas City, Mo., applicable as proportions of through rates from the same originating territories; *Held*, That the rates are not unreasonable or unjustly discriminatory.

3642. Parts of Fourth Section Applications Nos. 1840, 1862, and 1898, asking for permission to continue to charge proportional class rates from St. Louis, Mo., to Kansas City, Mo., via the line of the St. Louis & San Francisco Railroad Co. on traffic originating east of the Indiana-Illinois State line, in central freight association, southeastern, and Carolina territories, which are lower than rates concurrently in effect on like traffic from St. Louis, Mo., to Springfield, Mo., granted.

Marble rates from Vermont points. (29 I. C. C., 607.)

3643. Suspended tariff cancels joint rate on marble from Rutland Railroad stations to New York, routed White Creek, N. Y., Troy, N. Y., via Boston & Maine and New York City via Murray's Line. The respondent Rutland Railroad Company has in effect a joint rate from stations on its line to New York City via Chatham and New York Central & Hudson River Railroad. This latter route gives this respondent approximately 59 miles additional haul with a through route as direct as route under the canceled tariff, and rate is the same for either route.

3644. If a railroad has traffic in its possession, it shall be allowed to handle it by its own line as far as it can unless the public interest will suffer thereby. *Waverly Oil Works v. P. R. R. Co.*, 28 I. C. C., 621.

3645. Respondent Rutland Railroad Company is well within its rights in canceling the joint rate over the route by which it receives the shorter haul.

Lumber rates from Oregon and Washington to eastern points. (29 I. C. C., 609.)

3646. The proposed closing of the Wallula gateway to shipments of wool from local points on the lines of the Oregon-Washington Railroad & Navigation Company to the east over the Northern Pacific found upon the facts of record not to involve any unreasonable consequences, and the order of suspension is therefore vacated.

3647. The closing of the Spokane, Silver Bow, and Butte gateways to shipments of lumber originating on other lines and destined to points of consumption on the lines of the Union Pacific system not sustained by the facts shown of record, and the order of suspension is therefore made permanent.

3648. The cancellation of through routes and joint rates by way of the Colorado gateways upon general traffic between points on the lines of the Oregon-Washington Railroad & Navigation Company and the Missouri River and points east thereof held not to have been justified of record, and the order of suspension is therefore made permanent.

3649. Proposed rule under which respondent refuses to accept reconsignment Paul and the Great Northern with certain Puget Sound boat lines serving particular mills criticized and condemned.

Chicago & North Western Ry. reconsignment rules. (29 I. C. C., 620.)

3650. Proposed rule under which respondent refuses to accept reconsignment orders for foreign-line points on freight loaded in Chicago & North Western

Railway or Chicago, St. Paul, Minneapolis & Omaha Railway refrigerator cars, not found to effect unjust discrimination, nor to be unreasonable or otherwise in contravention of law.

3651. *Missouri & Illinois Coal Co. v. I. C. R. R. Co.*, 22 I. C. C., 39, distinguished.

Rates on potash and other commodities from north Atlantic seaboard points to Cincinnati, Ohio, and other points. (29 I. C. C., 626.)

3652. Imported salts formerly moved from north Atlantic ports to destinations in central freight association territory upon special import rates, with the rate to Chicago observed as the minimum as far east as Cincinnati. February 1, 1913, the import rates were canceled and superseded by domestic rates, regularly scaled upon the established percentage basis. July 1, 1913, tariffs were filed proposing to increase certain of these domestic rates by the use of the rate to Chicago as the minimum as far east as Cincinnati. *Held*, That the proposed increased rates have not been justified.

Fort Scott Industrial Asso. v. St. L. & S. F. R. R. Co. (29 I. C. C., 629.)

3653. Class and commodity rates maintained by defendant from St. Louis, Mo., and East St. Louis, Ill., to Fort Scott, Kans., not found to be unreasonable or unduly prejudicial as compared with similar rates to Kansas City, Mo.

3654. A part of Fourth Section Application No. 1898 for permission to continue lower rates from St. Louis, Mo., and East St. Louis, Ill., to Kansas City, Mo., than to Fort Scott, Kans., granted.

Rates of flaxseed from Minneapolis to Fredonia, Kans., and other points. (29 I. C. C., 633.)

Rates on flaxseed at present in effect Minneapolis to Fredonia, Kans., and other points, are lower than rates on wheat to the same destinations. In tariffs under suspension respondents propose increases in excess of the wheat rates. The rates on flaxseed Minneapolis to Chicago and St. Louis are no higher than those on wheat: *Held*, That—

3655. The rates on flaxseed from Minneapolis and all other points to the various consuming markets should bear a consistent relationship to one another and to the rates on wheat and other grain. The Commission can not allow the rates which respondents have proposed to become effective unless those to competitive markets are also increased to a level correspondingly higher than the wheat rates to those markets.

3656. Carriers will be permitted to increase the rate Minneapolis proper to Fredonia from 15 to 20½ cents per 100 pounds, and to establish rates to all other destinations involved no higher than the present wheat rates.

3657. No good reason has been advanced for maintaining different rates from Minneapolis on flaxseed coming from points beyond than from Minneapolis proper.

Rates on excelsior and flax tow from St. Paul, Minn. (29 I. C. C., 640.)

3658. A carload minimum weight which is reasonably adapted to the needs of the carriers and the great majority of shippers will not be increased because one shipper, by the expenditure of exceptional effort and expense, finds himself able to load more heavily than can his competitors; neither will this Commission under such circumstances prescribe a lower rate per 100 pounds conditional upon the use of a higher minimum weight as the measure of the carload.

Rates on gasoline engines and windmills. (29 I. C. C., 643.)

3659. Proposed tariffs which eliminate the inclusion of gasoline engines with windmills in mixed carload shipments not found to be unreasonable. Order suspending operation of tariffs vacated.

Lumber rates from local points on the Alabama Great Southern R. R. to Chattanooga, Tenn. (29 I. C. C., 646.)

3660. Proposed increased rates on lumber from points in Alabama and Georgia and on shingles from Sulphur Springs, Ga., to Chattanooga, Tenn., found unreasonable and present rates required to be maintained for the future.

Rates on green fruit from points in Idaho, Oregon, and Utah to eastern destinations. (29 I. C. C., 650.)

3661. Cancellation of through routes and joint rates on green fruit from points on the Oregon Short Line Railroad to destinations on and east of the Missouri River and to a few points west of the river found not to have been justified.

Decision in *Lumber Rates from Oregon and Washington to Eastern Points*, 20 I. C. C., 609, followed.

Refrigeration charges on fruits and vegetables from Colorado to Kansas points. (29 I. C. C., 653.)

By a provision in the suspended tariff relating to the transportation of fruits and vegetables from points in Colorado to points in Kansas, the Missouri Pacific Railway Co. seeks to eliminate an arrangement for furnishing refrigeration, known as "shipper's icing," under which the shipper is allowed to indicate on his bill of lading the amount of ice he desires placed in the car en route, to be furnished by the carrier at \$2.50 per ton; the carrier desiring to substitute therefor a stated charge of \$40 per car; *Held*, That—

3662. The carriers' position that the service should be furnished at a stated charge is correct.

3663. The \$40 charge proposed in the suspended tariff compares favorably with other icing charges approved by this Commission, and so far as the Commission can judge from the present record it appears to be a reasonable one. Order of suspension vacated.

American Hay Co. v. C. V. Ry. Co. (29 I. C. C., 659.)

3664. Defendant's tariff rule limited storage of hay at Pier 29, East River, New York, N. Y., to no more than five carloads for any one consignee, any cars in excess of that number to be held at New London, Conn., or other points on its line subject to a storage or demurrage charge of \$1 per car per day; *Held*, That such a rule is not unreasonable or discriminatory, and that complainant's traffic is not thereby subjected to undue prejudice.

3665. Rule providing for exemption from demurrage charges when same accrue on account of bunching required to be incorporated in tariff.

3666. Reparation awarded with respect to certain demurrage charges.

Woodward-Bennett Co. v. S. P., L. A. & S. L. R. R. Co. (29 I. C. C., 664.)

3667. Charges collected by defendant for the transportation of 11 carloads of cattle from Nephi, Utah, to Los Angeles, Cal., found to have been in accordance with published tariffs and not shown to have been unreasonable.

3668. Defendant's tariff, which names carload rates on cattle dependent upon the number of cars shipped, held to be unlawful.

C. S. Brackett Co. v. Great Northern Express Co. (29 I. C. C., 667.)

3669. Express package with destination and routing marked thereon by shipper was offered for transportation with receipt already made out by shipper showing different but correct routing. The receipt was signed and returned to the shipper without observing the discrepancy, and the carrier transported the package in accordance with the routing marked on the latter; *Held*, That the carrier was not responsible for charges incurred in transporting the shipment in accordance with the routing marked on the package.

Wichita Business Asso. v. K. C., M. & O. Ry. Co. (29 I. C. C., 669.)

3670. Rates on live stock in carloads from points on lines of defendants in Texas and Oklahoma via Altus, Okla., to Wichita, Kans., found unreasonable. Reasonable joint rates prescribed for the future.

Hughes Creek Coal Co. v. K. & M. Ry. Co. (29 I. C. C., 671.)

3671. Complainants' request for through routes and joint rates between stations on the Kanawha & Michigan Railway and its branches and the points specified in the complaint in eastern and southeastern territory on the lines of the Chesapeake & Ohio and its connections should be granted. As reasonable rates for these routes defendants should apply rates not in excess of those now applying to these destinations for shipments from the mines on the Chesapeake & Ohio. The factor of the two-line haul in the routes sought by complainants is negligible since the switching connection between the Kanawha & Michigan and the Chesapeake & Ohio is simple, and the average haul to destination is more than 500 miles. *Sheridan Chamber of Commerce v. C., B. & Q. R. R. Co.*, 26 I. C. C., 638, 647-649; *Investigation of Alleged Unreasonable Rates on Meats*, 23 I. C. C., 656, 661. The policy of the Chesapeake & Ohio to restrict the movement of coal on its line confined solely to coal originating on its own line held not to be justified.

3672. Complainants' request for a through route and joint rate to the Cincinnati switching territory over the Kanawha & Michigan and the Chesapeake &

Ohio and its connections should not be granted. Such a route would give the Kanawha & Michigan a short haul of very much less than the entire length of its line.

3673. The fact that the defendants have established through routes and joint rates from Chesapeake & Ohio mines to Kanawha & Michigan destinations, while refusing complainants the through routes and joint rates sought, does not constitute unlawful discrimination when viewed in the light of the principles applied in *Coke Producers' Asso. of Connellsville Region v. B. & O. R. R. Co.*, 27 I. C. C., 125, and the cases there cited, which hold a test of discrimination to be the ability of one of the carriers participating in the two through routes to put an end to the discrimination by its own act.

3674. The charge that since the Chesapeake & Ohio and the Kanawha & Michigan are practically one road it is unjustly discriminatory for them to deny the Kanawha & Michigan mines access to markets which have been made available for Chesapeake & Ohio mines held not to be established. For the purposes in question no such identity between the two roads as complainants assert has been proven.

Campbell's Creek Coal Co. v. A. A. R. R. Co. (29 I. C. C., 632.)

3675. Defendants' application of the main-line rates to points on the Kanawha & West Virginia and the Coal & Coke railroads while denying them to complainants constitutes undue and unreasonable prejudice and disadvantage to complainants, which should be corrected either by canceling the main-line rates to points on the lines mentioned or by establishing the main-line rates as joint rates with the Campbell's Creek Railroad.

3676. No such undue prejudice may be predicated upon the application of the main-line rates to points on branches of the defendant Kanawha & Michigan Railroad.

3677. The portion of section 1 which makes it the duty of every carrier subject to the act to furnish cars must be read into that portion of section 1 which deals with the matter of switching connections between common carriers and lateral branch lines. *Huerfano Coal Co. v. C. & S. E. R. R. Co.*, 28 I. C. C., 502.

3678. Defendants' contention that it would be impossible to hold the Campbell's Creek Railroad a common carrier without finding it guilty of a violation of the commodities clause, assuming defendants' construction of the law is correct, is not sustained by the facts.

Boxboard rates from Wilmington, Ill., and other points to Chicago, Ill., and Milwaukee, Wis., and other points. (29 I. C. C., 694.)

3679. Proposed increase in rate on strawboard, boxboard, chipboard, and other paper-stock products from Wilmington, Ill., to Milwaukee and other points in Wisconsin and Indiana held not to be justified and tariffs directed to be canceled.

New England and Canadian high explosives rates. (29 I. C. C., 697.)

3680. Withdrawal of commodity rates on high explosives from Mississippi River points to the east permitted.

Stone & Son v. S. Ry. Co. (29 I. C. C., 699.)

3681. Rate of \$2.05 per ton on coal from Newcomb, Tenn., to Greenville, S. C., found to have been unreasonable in so far as it exceeded a rate of \$1.95. Reparation awarded.

United States v. R., F. & P. R. R. Co. (29 I. C. C., 702.)

3682. Classification of "projectiles, empty or solid, other than small arm, in boxes, l. c. l. first class. In packages or loose, c. l., minimum weight 30,000 pounds, fourth class," not found to be unreasonable or unduly prejudicial. Complaint dismissed.

Curry & Whyte Co. v. D. & I. R. R. R. Co. (30 I. C. C., 1.)

3683. Rates on pulpwood in carloads from points in Minnesota to Duluth applied as parts of the rates for through transportation to points in Wisconsin and Michigan, not found unreasonable. Saw-log rates to Duluth held in this instance not to afford a fair test of the reasonableness of the pulpwood rates.

3684. The exaction of a higher charge for the transportation of pulpwood in carloads from Duluth, Minn., to destinations in Wisconsin and Michigan than that contemporaneously exacted for similar transportation from Superior, Wis., and the application of Superior rates from Duluth on other traffic to the same

destinations held to subject pulpwood traffic and the shippers thereof to undue prejudice and disadvantage.

3685. The view expressed in *Pulp & Paper Mfrs. Traffic Asso. v. C., M. & St. P. Ry. Co.*, 27 I. C. C., 83, that the nature of pulpwood operations renders a distance-scale adjustment to the gateways desirable, adhered to.

3686. Following *Anadarko Cotton Oil Co. v. A., T. & S. F. Ry. Co.*, 20 I. C. C., 43, and *P. R R Co. v. International Coal Mining Co*, 230 U. S., 184, reparation denied.

Rates on grain and grain products from East St. Louis, Ill., and other stations to eastern points. (30 I. C. C., 16.)

3687. Proposed withdrawal of proportional rates on grain and grain products moving by way of the Illinois Central from St. Louis, Mo., and East St. Louis and Madison, Ill., to eastern trunk line territory held to be justified. Order of suspension vacated.

3688. For reasons stated in the report the denial of milling in transit at Marine, Ill., does not appear to involve any undue discrimination.

Wallingford v. A., T. & S. F. Ry. Co. (30 I. C. C., 19.)

3689. Class-D rating on cement silo staves in carloads from Kansas City, Mo., to points on defendants' lines in Kansas, Nebraska, Colorado, and Oklahoma found to have been unjust and unreasonable. Class-E rating, minimum weight 36,000 pounds, found to be reasonable and prescribed for the future. Reparation awarded.

Rates for interstate transportation of crushed stone from Port Deposit, Md., and from points in other states to points in Maryland and Delaware. (30 I. C. C., 22.)

3690. Proposed increased rates for the transportation of interstate shipments of crushed stone from Port Deposit, Md., and producing points in other states to consuming points in Maryland and Delaware, found not justified by the evidence of record.

3691. Recently increased rates on the same commodity from and to points similarly situated, found to be unreasonable to the extent that they exceed the rates previously in effect.

Merchants & Manufacturers Asso. v. C. C. R. Co. (30 I. C. C., 29.)

3692. Rates of \$2.50 per net ton in carloads and \$5.70 per net ton in less than carloads on shipments of fertilizer from Baltimore, Md., to Kiptopeke, Va., found to be unreasonable to the extent they exceed \$2.10 and \$3.50, respectively.

Rogers & Prinkey v. B. & O. R. R. Co. (30 I. C. C., 32.)

3693. Basis proposed by Baltimore & Ohio Railroad for construction of joint through rates on coal from mines on the line of the Indian Creek Valley Railway Company, which basis makes rates 10 cents per ton higher from these mines than from mines in the Meyersdale group on the Baltimore & Ohio Railroad, not found to be unreasonable or unjustly discriminatory.

Chattanooga log rates. (30 I. C. C., 36.)

3694. Rates on logs which would have been made effective by the tariff under suspension held unreasonable, but the respondent will be permitted to substitute for the present rates a scale of rates proposed at the hearing.

3695. Shippers have no such vested interest in a rate by reason of contract or by reason of investments made under an existing rate, that this fact standing alone would preclude the raising of the rate if same were found unreasonable or low.

Metropolis Commercial Club v. I. C. R. R. Co. (30 I. C. C., 40.)

3696. The maintenance of higher rates on lumber and logs from equidistant points in the States of Tennessee, Alabama, Mississippi, Louisiana, and that part of the State of Arkansas lying on and south of the line of the Chicago, Rock Island & Pacific Railway, Memphis, Tenn., to Little Rock, Ark., to Metropolis, Ill., than are contemporaneously maintained to Cairo, Ill., held to subject Metropolis and shippers and manufacturers at that point to undue prejudice and disadvantage.

3697. From points in the territory described east of the Mississippi River the rates to Metropolis should not exceed those to Cairo, while from points west of the Mississippi River the rates to Metropolis should not exceed by more than 1 cent per 100 pounds the rates to Cairo.

3698. The charges of the Illinois Central Railroad Company from Paducah, Ky., to Metropolis, Ill., applied as parts of the through charges for through transportation from producing points of logs to be milled in transit at Metropolis, should not exceed the charges for similar transportation from East Cairo, Ky., to Cairo, Ill., of logs to be milled at Cairo.

Wichita Business Assn. v. A., T. & S. F. Ry. Co. (30 I. C. C., 45.)

Complaint alleged that the present any-quantity rates on brooms from Wichita, Kans., of \$2.10 per 100 pounds to Pacific coast terminals, and \$2 per 100 pounds to north Pacific coast points, are unreasonable and unjustly discriminatory, against traffic from Wichita, and unduly preferential to eastern and Pacific coast manufacturing points; also that the rates on brooms, as such, are unduly discriminatory and prejudicial as compared with rates on broom corn. *Held:*

3699. That the any-quantity rates on brooms are not shown to be unreasonable *per se*.

3700. That they are not shown to be unduly prejudicial to Wichita or unduly preferential either to other manufacturing points or to the traffic in broom corn. Complaint dismissed.

Rates on fruits and vegetables between points in California and points in Nevada, Arizona, and other points. (30 I. C. C., 56.)

3701. Proposed increases in the classification ratings on carload and less-than-carload shipments of fresh fruits and vegetables between points in California and points in Nevada, Arizona, and other States not justified.

3702. Commodity rates to Arizona points established after the order of suspension which are on the basis of, or lower than, the class rates in effect at the time of the filing of the suspended schedule, permitted to remain.

Hammerschmidt & Franzen Co. v. C. & N. W. Ry. Co. (30 I. C. C., 71.)

Proviso, Ill., a terminal of the Chicago & North Western Railway, within, but on the extreme outer edge of, the Chicago switching district, is an interchange point at which the North Western receives coal from the Indiana Harbor Belt Railroad moving in course of through transportation from points east of the Indiana-Illinois state line to Elmhurst, Ill., a point beyond the Chicago switching district, three miles west of Proviso on the North Western. Upon complaint alleging that the rates from Chicago to Elmhurst are unreasonable and unduly prejudicial, when applied as proportional rates from Proviso to Elmhurst, *Held:*

3703. That the relative situation of Elmhurst and Proviso is not different in principle from that presented where competitive points are in close proximity to one another but in groups from or to which different group rates apply.

3704. That while carriers may establish common rates to a defined zone or group of points and treat them all as a unit for rate-basing purposes, they do so subject to the inhibitions of the law against creating undue prejudice to points just without or beyond that zone.

3705. That the traffic here involved is through traffic, and the reasonableness of rates applicable thereto must be considered in respect to the reasonableness of the through rates in their entirety. So considered, the through rates to Elmhurst are not shown to be unreasonable in themselves, but they are found to be unduly prejudicial against Elmhurst and unduly preferential to Chicago and Proviso.

Lombard Brick & Tile Co. v. C. & N. W. Ry. Co. (30 I. C. C., 84.)

3706. Following *Hammerschmidt & Franzen Co. v. C. & N. W. Ry. Co.*, *ante*, page 71; *Held*, That defendants' rates for the through transportation of coal and coke from points east of the Illinois-Indiana state line to Lombard, Glen Ellyn, Wheaton, and West Chicago, Ill., are unduly prejudicial to those points and unduly preferential to Chicago and Proviso, Ill., in the amounts stated herein.

Poehlman Bros. Co. v. C., M. & St. P. Ry. Co. (30 I. C. C., 89.)

3707. Defendant's rate of 40 cents per ton, applicable from Galewood, Ill., to Morton Grove, Ill., on interstate shipments of coal received from connecting lines at the former point not shown to be unduly discriminatory or prejudicial. The traffic involved is through traffic. The through rate is not drawn in question, nor are the participating carriers made defendants. The Commission there-

fore declines to express any opinion upon the question of the reasonableness of the rate under attack. Complaint dismissed.

Wheat rates from Oklahoma points to Memphis, Tenn., and other points. (30 I. C. C., 93.)

3708. Proposed increased rates on wheat and grain products taking the same rates, from points in Oklahoma to Memphis, Tenn., not justified.

Hornel & Co. v. C., M. & St. P. Ry. Co. (30 I. C. C., 98.)

3709. The original report herein, 26 I. C. C., 112, declared unreasonable and unjustly discriminatory rates on fresh meat and packing-house products from Austin, Minn., to Chicago, Ill., prescribed reasonable rates for the future, and awarded reparation. On rehearing, granted on petition of complainant, the finding is modified and awarded of reparation affirmed.

3710. Upon intervening petition of Swift & Company, located at South St. Paul, and of various carriers, rate on similar commodities between that point and Chicago considered; *Held*, That rate of 20 cents on fresh meat and packing-house products from South St. Paul, Minn., to Chicago, Ill., unjustly discriminates against South St. Paul in favor of Austin, and similar charges ordered established. Mere proof of specific shipments made, and the freight paid, and the amount for which reparation is sought does not make out a prima facie case when discrimination in rate or service is basis of the complaint. Reparation to intervener is denied.

American Refining Co. v. St. L. & S. F. R. R. Co. (30 I. C. C., 103.)

3711. Rate of 17 cents per 100 pounds for the transportation of petroleum road oil and petroleum tailings from Okmulgee, Okla., to St. Louis, Mo., and East St. Louis, Ill., found to be unreasonable and unduly prejudicial to the extent it exceeds 14½ cents per 100 pounds.

Lucas E. Moore Stave Co. v. S. Ry. Co. (30 I. C. C., 105.)

3712. Subsequent to the filing of the complaint, which challenges the reasonableness of the rates on staves and heading from Columbus, Miss., to 25 points of destination in the southeast, the defendants have filed tariffs, effective May 1, 1914, making reductions to a majority of the points involved. Said rates, which are on substantially the same basis as those applicable from Meridian, Miss., and Decatur, Ala., not found to be unreasonable or unjustly discriminatory.

Coal rates from Indiana and Illinois mines to stations in Iowa. (30 I. C. C., 108.)

3713. Proposed increased rates on coal from grouped mines in southern Indiana and Illinois to points on the Mason City & Clear Lake and Inter-Urban railways in Iowa held to be justified and order suspending their operation canceled.

Lumber Rates from North Pacific Coast Points. (30 I. C. C., 111.)

3714. The proposed cancellation of through rates on lumber and other forest products from points on the lines of the Oregon-Washington Railroad & Navigation Company to points on or east of the Missouri River via Plummer, Idaho, in connection with the Chicago, Milwaukee & St. Paul Railway, not found unreasonable. The respondents will be expected to so amend their tariffs as to maintain through rates via the Plummer gateway to points to which such rates are now lower than those applicable via the route through Council Bluffs, Iowa, after which the order of suspension will be vacated.

Coal Rates to Dewey, Okla. (30 I. C. C., 115.)

3715. Proposed increased rates on slack and run-of-mine coal from West Mineral and Fleming, Kans., to Dewey and Bartlesville, Okla., not found to be justified and directed to be canceled.

R. W. Pridham Co. v. Southern Pacific Co. (30 I. C. C., 117.)

3716. There are no transportation differences between the movement of suitable commodities from California terminals eastbound in wood and in fiber, and defendants' rule limiting the application of commodity rates to articles shipped in boxes "made entirely of wood or wood and metal" found to be unreasonable and unjustly discriminatory.

3717. While the fiber box is being accepted by carriers in other territories for the transportation of some articles which do not carry safely therein, the Com-

mission can not on this record undertake to indicate the commodities which should be denied transportation in such containers.

3718. The classification rules with respect to the construction, packing, and sealing of fiber boxes should be rigidly enforced and the shipper held responsible for any violation thereof.

3719. The opinion expressed that some restrictions should be placed by the carriers upon wooden containers.

Pacific Coast Gypsum Co. v. O.-W. R. R. & Nav. Co. (30 I. C. C., 135.)

3720. Rates on lime and plaster from Seattle and Tacoma, Wash., to Portland, Oreg., not found to be unjustly discriminatory, as compared with rates from Lime and Gypsum, Oreg., to Portland and Puget Sound points, but the existence of rates eastbound in some instances twice as high as those for substantially the same distances westbound not found to be justified. The Oregon-Washington Railroad & Navigation Company will be expected to revise its rates from Seattle and Tacoma to points on its lines east of Portland.

Anderson-Tully Co. v. M. L. & T. R. R. & S. S. Co. (30 I. C. C., 140.)

3721. Rules enforced at New Orleans, La., for the assessment against steamship companies of demurrage charges on shipments of forest products moving on through export bills of lading via that port not found to unjustly discriminate against shipments moving to the port on local bills of lading for export. Complaint dismissed.

In the matter of a proposed bond issue by the New York Central & Hudson River R. R. Co. (30 I. C. C., 147.)

3722. By direction of Senate resolution the Commission reports to the Senate the facts, and its opinions on certain questions raised thereby, in connection with the New York Central & Hudson River Railroad Company's proposal to consolidate with that company the Lake Shore & Michigan Southern Railway Company and certain of its owned or controlled lines, and to refund \$90,578,400 of the New York Central Company's Lake Shore collateral $3\frac{1}{2}$ per cent bonds with the consolidated company's 4 per cent mortgage bonds in consideration for the consent of these bondholders to the consolidation.

Fourth section violations in the Southeast. (30 I. C. C., 153.)

3723. Carriers authorized to continue all-rail rates via Potomac Yards, Va., and water-and-rail rates via Norfolk, Va., from New York to Charleston, S. C., Savannah, Ga., Brunswick, Ga., and Jacksonville, Fla., lower than to intermediate points.

3724. Carriers authorized to continue all-rail rates via Potomac Yards and water-and-rail rates via Norfolk or south Atlantic ports from New York to New Orleans, La., Mobile, Ala., and Pensacola, Fla., lower than to intermediate points.

3725. Carriers authorized to continue rates from New Orleans to Charleston, Savannah, Brunswick, Jacksonville, and Tampa, Fla., lower than to intermediate points. Rates to intermediate points on routes to New Orleans to Savannah, Brunswick, and Jacksonville found unduly discriminatory.

3726. Carriers authorized to continue rates from Cincinnati, Ohio, and Louisville, Ky., to Charleston, Savannah, Brunswick, and Jacksonville, lower than to intermediate points. Rates from Louisville to stations on the Seaboard Air Line Railway between Cordele, Ga., and Savannah found unduly discriminatory. Rates from Cincinnati to points on the Southern Railway between Macon, Ga., and Jacksonville found unduly discriminatory. Rates from Louisville to stations on the Seaboard Air Line Railway between River Junction, Fla., and Jacksonville found discriminatory as compared one with another; their alignment prescribed.

3727. Carriers authorized to continue rates from Cincinnati, Louisville, Cairo, Ill., St. Louis, Mo., Chicago, Ill., to Gulf ports, lower than to intermediate points. Rates from St. Louis to stations on Mobile & Ohio Railroad between Meridian, Miss., and Mobile, Ala., found unduly discriminatory.

3728. Carriers authorized to continue rates from Cincinnati, Louisville, Cairo, St. Louis, and Chicago to Memphis, Tenn., Greenville, Miss., Vicksburg, Miss., and Natchez, Miss., lower than to intermediate points. Rates from Cairo, St. Louis, Louisville, and Chicago to certain stations on the Yazoo & Mississippi Valley Railroad found unduly discriminatory.

3729. Carriers authorized to continue all-rail and water-and-rail rates from New York to Augusta, Ga., Memphis, Macon, Milledgeville, Ga., Hawkinsville,

Ga., Dublin, Ga., Columbus, Ga., Montgomery, Ala., Selma, Ala., Demopolis, Ala., and Tuscaloosa, Ala., lower than to intermediate points. Present rates to Macon and Milledgeville, Hawkinsville, Dublin, and Columbus found unduly preferential. Authority to continue lower rates from New York to Albany, Ga., than to intermediate points denied. Rates from New York to stations on the Central of Georgia Railway between Savannah and Augusta found unduly discriminatory. Rates from New York to stations on the Central of Georgia Railway east of Macon found unduly discriminatory. Rates from New York to stations on the Seaboard Air Line Railway between Cordele and Montgomery found unduly discriminatory. Rates from New York to stations on the Southern Railway between Demopolis and Selma found unduly discriminatory.

3730. Carriers authorized to continue rates from New Orleans to Augusta lower than to intermediate points. Present rates. New Orleans to Macon, Columbus, Montgomery, Selma, and Albany, found unduly preferential. Authority to continue lower rates from New Orleans to Montgomery, Selma, Columbus, Macon, and Albany than to intermediate points denied.

3731. Carriers authorized to continue rates from Cincinnati and Louisville to Augusta, Macon, Columbus, Montgomery, and Selma lower than to intermediate points. Authority to continue lower rates from Cincinnati and Louisville to Albany than to intermediate points denied. Practice of meeting competition of eastern carriers at Macon and not meeting this competition at intermediate points held to be unduly preferential to Macon, and unduly discriminatory against intermediate points. Rates from Louisville to stations on the Georgia Railroad between Atlanta and Augusta held to be unduly discriminatory. Rates from Cincinnati to stations on the Southern Railway between Atlanta and Macon found unduly discriminatory. Rates from Louisville to stations on the Central of Georgia Railway between Columbus and Macon found unduly discriminatory. Rates from Cincinnati to stations on the Southern Railway between McDonough, Ga., and Columbus found unduly discriminatory. Rates from Louisville to stations on the Central of Georgia Railway, Birmingham, Ala., to Columbus found unduly discriminatory. Rates from Cincinnati to stations on the Georgia Southwestern & Gulf Railroad between Condele and Albany found unduly discriminatory. Rates from Cincinnati to stations on the Seaboard Air Line Railway between Montgomery and Albany found unduly discriminatory. Rates from Cincinnati to stations on the Atlanta & West Point Railroad found unduly discriminatory. Rates from Cincinnati to stations on the Southern Railway between Birmingham and Selma found unduly discriminatory. Rates from Cincinnati to points on the Cincinnati, New Orleans & Texas Pacific Railway, north of Chattanooga, found unduly discriminatory. Rates from Louisville to stations on the Nashville, Chattanooga & St. Louis Railway found unduly discriminatory.

3732. Carriers authorized to continue water-and-rail rates from New York to Birmingham, Ala., Rome, Ga., Meridian and Jackson, Miss., lower than to intermediate points. Authority to continue rates from New York to Atlanta, Ga., Athens, Ga., and Cordele, Ga., lower than to intermediate points denied. Rates from New York to stations on the Central of Georgia Railway between Macon and Atlanta found unduly discriminatory. Rates from New York to stations on the Central of Georgia Railway between Savannah and Athens found unduly discriminatory. Rates from New York to stations on the Seaboard Air Line Railway between Savannah and Cordele found unduly discriminatory. Rates from New York to stations on the Southern Railway intermediate to Rome found unduly discriminatory. Rates from New York to points on the Alabama Great Southern Railroad between Birmingham and Meridian found unduly discriminatory. Rates from New York to stations on the Alabama & Vicksburg Railroad between Jackson and Meridian found unduly discriminatory. Authority to continue water-and-rail rates from New York via Mobile and New Orleans to Meridian and Jackson, lower than to intermediate points denied.

3733. Authority to continue rates from New Orleans to Atlanta, Birmingham, Athens, Rome, and Cordele, lower than to intermediate points via direct lines denied. Rates from New Orleans to stations on the Atlanta & West Point Railroad found unduly discriminatory. Rates from New Orleans to stations on the Seaboard Air Line Railway between Montgomery and Cordele found unduly discriminatory. Rates from New Orleans to stations on the Southern Railway between Birmingham and Rome found unduly discriminatory.

3734. Authority to continue rates from Cincinnati and Louisville to Atlanta, Birmingham, Athens, Cordele, and Rome lower than to intermediate points denied. Authority to continue rates from Cairo, St. Louis, Chicago, Louisville,

and Cincinnati to Meridian and Jackson lower than to intermediate points denied. Rates from Cincinnati to stations on the Southern Railway, north of Atlanta, found unduly discriminatory. Rates from Louisville to points on the Seaboard Air Line Railway between Montgomery and Cordele found unduly discriminatory. Rates from Cincinnati to stations on the Georgia Southern & Florida, north of Cordele, found unduly discriminatory. Rates from Cincinnati to points on the Southern Railway, north of Rome, found unduly discriminatory. Rates from St. Louis to stations on the Mobile & Ohio Railroad, north of Meridian, found unduly discriminatory.

Rates on iron and steel articles between Chicago, Ill., St. Louis, Mo., St. Paul, Minn., and other points, and Des Moines, Iowa, Sioux City, Iowa, Sioux Falls, S. Dak., and other points. (30 I. C. C., 337.)

3735. Proposed rates on iron and steel articles from the Mississippi River and Chicago to points in eastern Iowa, and on scrap iron from Omaha, Nebr., Sioux City, Iowa, and Sioux Falls, S. Dak., to St. Paul, Minn., found to be justified and orders suspending their operation vacated.

Rates on packing-house products, fresh meats, and other commodities from Mason City, Iowa, and other points to points in Arkansas and Texas. (30 I. C. C., 341.)

3736. Proposed rates on packing-house products and fresh meats from Mason City, Iowa, and Austin and South St. Paul, Minn., to Texas and Arkansas points not found to be justified and tariffs directed to be canceled.

Wheeler Lumber Bridge & Supply Co. v. A., T. & S. F. Ry. Co. (30 I. C. C., 343.)

3737. Complaint is made of the failure of defendants to grade a differential of 5 cents per 100 pounds over the rate to the Missouri River on shipments of fir lumber and fir forest products from Pacific coast points to destinations in Iowa. Following decision of the Commission in *Betcher Lumber Co. v. C. M. & St. P. Ry. Co.*, 26 I. C. C., 335, complaint dismissed.

Peanut rates to Oklahoma City, Okla. (30 I. C. C., 346.)

3738. Proposed increased rate on peanuts in carloads from points on respondents' lines in southeastern Louisiana to Oklahoma City, Okla., not justified and ordered to be canceled.

Minimum weight on fresh meats and other commodities. (30 I. C. C., 349.)

3739. Increase from 10,000 to 15,000 pounds in minimum weight of special refrigerator cars in shipments from Chicago held to be reasonable, provided respondents eliminate element of discrimination by providing similar minimum weight from St. Louis.

Trier v. C., St. P., M. & O. Ry. Co. (30 I. C. C., 352.)

3740. The nonconfiscatory character of scales of fare established by a state for intrastate passenger journeys, where such rate scales have not been acquiesced in by the carriers, is not sufficient *per se* to warrant this Commission's setting aside as unjust and unreasonable fares at a different level for interstate journeys, even where one stretch of the interstate journey is within the state establishing such scales of fare.

3741. Fares between points named in the report found to have been unlawful in November, 1912, in and to the extent that they exceeded the aggregate of the intermediate fares subject to the provisions of this act.

Break-bulk rates on grain. (30 I. C. C., 357.)

3742. On the record as presented at the rehearing, proposed increased break-bulk rates, domestic and export, on grain and grain products from Milwaukee, Manitowoc, and Kewaunee, Wis., to points in trunk line territory east of Niagara frontier, found to have been justified. The order of the Commission in the original case is vacated.

Seattle Shingle Co. v. C., M. & St. P. Ry. Co. (30 I. C. C., 364.)

3743. The failure of the defendants to apply coast or terminal rates to shipments of shingles originating at water-locked points on the Olympic peninsula while maintaining such rates from various points on the mainland north and south of their terminals held not to constitute unjust discrimination.

Rates on lumber and other forest products from points in Arkansas and other states to points in Iowa, Minnesota, and other states. (30 I. C. C., 371.)

3744. Proposed increased rates, resulting from disagreement between carriers as to divisions, found not to have been justified.

3745. The establishment of divisions is a continuing power, supplemental to the establishment of joint rates and dependent upon carriers' failure to agree upon the proportions thereof to be received by each.

Wichita Business Asso. v. A., T. & S. F. Ry. Co. (30 I. C. C., 374.)

3746. Wichita can not ship agricultural implements in the same car mixtures as Kansas City to Texas points except under rates which make a much larger combination rate for Wichita than Kansas City enjoys; *Held*, That this situation is unlawfully discriminatory against Wichita, and defendants given until August 1, 1914, to adjust these commodity rates out of Wichita so that the same relative difference is maintained as now exists between the class rates applicable from the two above-named cities.

3747. Storage-in-transit contention of complainant not sustained, as it does not appear that Kansas City enjoys this privilege on shipments destined to the Texas points concerned herein.

3748. Reparation denied, it not appearing that claimant was damaged by the unlawful discrimination found to exist.

Tampa Board of Trade v. L. & N. R. R. Co. (30 I. C. C., 377.)

3749. Tampa, Fla., is served by the Mallory Steamship Company from Mobile, Ala., and the Gulf & Southern Steamship Company from New Orleans, La. Upon petition for the establishment in connection with those lines of through routes and joint rates to Tampa from points on the lines of rail carriers serving the other two ports named: *Held*, That such through routes should be established in connection with the Mallory Steamship Company and the defendant carriers serving Mobile will be expected to make effective within 90 days reasonable rates for the rail-and-water service. No opinion expressed as to the amount of such rates or as to the establishment of through routes in connection with the Gulf & Southern Steamship Company.

Grain rates to Pittsburgh, Pa. (30 I. C. C., 382.)

3750. Proposed increase in rates on ex-lake grain from Buffalo, N. Y., to Pittsburgh, Pa., and points taking the same rates not found to have been justified. Tariffs naming the increased rates required to be canceled.

Malt rates to Texas points. (30 I. C. C., 385.)

3751. Proposed rates involving an increase of 4 cents per 100 pounds on malt in carloads from Chicago, Ill., and points in Wisconsin and Missouri, to destinations in Texas, not justified.

Merchants & Manufacturers' Asso. v. B. & O. R. R. Co. (30 I. C. C., 388.)

For many years defendants maintained at Baltimore, Md., a store-door pick-up and delivery service which, except as to certain specified articles, embraced the first three classes of freight from defined eastern and New England territory. September 1, 1913, this service was withdrawn without change in the transportation rates, and the generally prevailing method of station delivery has since obtained. Complainant alleges that because of the discontinuance of store-door delivery, and for other reasons, the class rates between the points referred to and Baltimore are unreasonable, unjustly discriminatory, and unduly prejudicial. Reparation is asked from September 1, 1913. Upon the facts of record, *Held*:

3752. That defendants were warranted in the discontinuance of store-door delivery.

3753. That the allegations of the complainant in other respects are not sustained. Complaint dismissed.

Merchants & Manufacturers' Asso. v. C. R. R. Co. of N. J. (30 I. C. C., 393.)

3754. Prayer for through route and joint rates from Jersey City and New York to Baltimore, over a circuitous route through Gettysburg, Pa., denied in view of the existing routes with joint rates by more direct lines.

3755. Class rates for the transportation of freight from Brills, N. J., and Philadelphia, Pa., to Baltimore, through Gettysburg, not found to be unreasonable or unjustly discriminatory. Complaint dismissed.

Wickwire Steel Co. v. N. Y. C. & H. R. R. R. Co. (30 I. C. C., 415.)

3759. No reason has been shown why the Commission should depart from its original finding in *Wickwire Steel Co. v. N. Y. C. & H. R. R. R. Co.*, 27 I. C. C., 168, that the rate of \$1.85 per ton for the transportation of coke from the Connellsville region to Buffalo, N. Y., is a reasonable one.

3760. An issue of discrimination in the sense of preference and prejudice under section 3 of the act can be considered in a proceeding relating to a rate increased since January 1, 1910. While in the case of the increased rate the issue as to whether it is just and reasonable is one unavoidably a part of the case, it is not necessarily the sole issue. The fact that the increased rate eliminates a discrimination should be given some weight in determining its propriety.

3761. The Commission in its original decision did not base its conclusion on evidence introduced in the other coke cases, but merely used the rates found in the other cases to be reasonable as a measure of the reasonableness of the rate in the *Wickwire case*. Such a reference to the conclusions in other cases is entirely proper.

Lake Superior Paper Co. v. D., S. S. & A. Ry. Co. (30 I. C. C., 403.)

3756. Complainant alleges that the rates on news print paper in carloads from the Soo, Ontario, to destinations in Michigan, Ohio, Pennsylvania, Indiana, Illinois, and Missouri are unjust, unreasonable, and unjustly discriminatory; comparisons are made with rates from points in Wisconsin, Minnesota, New York, New Hampshire, Maine, Quebec, and Ontario; *Held*, That the rates from the Soo to the Ohio, Pennsylvania, and Michigan destinations named in the complaint are unjust, unreasonable, and unjustly discriminatory in so far as they exceed those at present prevailing from the Fox River group in Wisconsin; and that the rates to the Illinois destinations and to St. Louis are unreasonable in so far as they exceed by more than 5 cents the rates at present in effect from the Fox River group.

3757. The rates from the Soo to Indiana destinations are not out of harmony with those from the Wisconsin groups.

3758. No reparation awarded except as to shipments from the Soo to Chicago upon which a charge in excess of 16 cents per 100 pounds was collected.

Cement rates from Mason City, Iowa. (30 I. C. C., 426.)

3762. The Chicago, Milwaukee & St. Paul Railway Company and the Northern Pacific Railway Company had established joint through rates on cement from Mason City, Iowa, to certain terminal points in Minnesota and North Dakota, which through rates had no intermediate application. The former carrier published a supplement to its tariff by which it apparently unintentionally gave intermediate application to the low terminal rates. This effect of the supplement being discovered, both carriers filed tariffs canceling the joint through rates to most of the points in question. These latter tariffs having the effect of advancing the rates above the level established by the supplement, protestants objected to the filing of the tariffs canceling the joint through rates; *Held*, That the equities of the situation demand a resumption of the status quo as it was under the old rates and a hearing upon the reasonableness of those rates.

Newmark Grain Co. v. Southern Pacific Co. (30 I. C. C., 431.)

3763. Privilege of storage in transit for grain denied where it appears that like privileges are not granted by the defendants elsewhere in that territory and the necessity for storage at the point in question primarily grows out of domestic disturbances in the neighboring country of origin.

In the matter of the Muncie & Western R. R. Co. (30 I. C. C., 434.)

3764. Upon the facts disclosed of record it is *Held*, That the Muncie & Western Railroad Company is the private facility of the Ball Brothers' Glass Manufacturing Company, and that the allowance of a switching charge heretofore paid to it by the trunk lines was without justification.

New York State Shippers' Protective Assn. v. N. Y. C. & H. R. R. R. Co. (30 I. C. C., 437.)

3765. Upon the facts set forth in the report, and following the authorities cited therein, this complaint, which brings in issue the lawfulness of defendant's rules and practices with respect to car fittings, is dismissed.

Morris, Johnson, Brown Mfg. Co. v. I. C. R. R. Co. (30 I. C. C., 443.)

3766. Carload rates on excelsior from Dubuque, Iowa, to Chicago and Peoria, Ill., and St. Louis, Mo., not found to be unreasonable or unjustly discriminatory, but rates from Dubuque to Missouri River points held to be unreasonable, and reasonable rates for the future prescribed.

Chamber of Commerce of Washington, D. C., v. B. & O. R. R. Co. (30 I. C. C., 446.)

On the facts of record, *Held*:

3767. That, following *Merchants & Mfrs. Asso. v. B. & O. R. R. Co.*, *ante*, page 388, I. C. C., respondents are warranted in their withdrawal of store-door delivery at Washington, D. C., which, with certain exceptions, embraced the first four classes of freight from defined eastern and New England territories.

3768. That the class rates from said territories to Washington are not shown to be unreasonable.

3769. That the portion of respondents' fourth section application No. 1781 which asks authority to continue lower rates to Richmond than to Washington on the several classes of freight from New York and other eastern points is denied.

3770. That the class rates from Washington to the Carolinas and other south-eastern territories are unlawful to the extent that they exceed the aggregates of the intermediate rates. Proceedings held open to await effective readjustment of rates by the southern carriers and for other stated purposes.

Judd & Detweiler v. B. & O. R. R. Co. (30 I. C. C., 455.)

On the facts of record, following *Merchants & Mfrs. Asso. v. B. & O. R. R. Co.*, *ante*, page 388, *Held*:

3771. That defendants were warranted in their withdrawal of store-door delivery at Washington, D. C., which, with certain exceptions, embraced the first four classes of freight from defined eastern and New England territory.

3772. That complainant's allegations in other respects are not sustained. Complaint dismissed.

California-Colorado Lumber Rates. (30 I. C. C., 461.)

3773. From the facts of record herein it appears that the respondents have justified the increase in rates in question. As the Southern Pacific rates have already become effective, no order will be made as to that carrier; but as the Santa Fe rates are still under suspension, an order of vacation will be issued.

Proportional Rates on Coal from Ohio Coal Fields to Mississippi River Crossings. (30 I. C. C., 465.)

3774. The cancellation of the proportional rate of \$2.10 per net ton from the Ohio coal fields to the upper Mississippi River crossings, applicable on bituminous coal destined to points west thereof, not justified.

Rates on Cotton and Cotton Linters. (30 I. C. C., 467.)

3775. The proposed withdrawal by respondents of concentration privilege at Little Rock, Conway, and Morrilton, Ark., on cotton from points on the Arkansas Central Railroad and the restriction in that respect of shippers to Fort Smith and Van Buren, Ark., found not to have been justified.

Memphis Freight Bureau v. I. C. R. R. Co. (30 I. C. C., 471.)

3776. From Memphis, Tenn., to the Ohio River and beyond the only rates in effect on rice are the class rates, while from milling points in Louisiana, Texas, and Arkansas commodity rates are in effect, all of these rates being lower than those applicable to intermediate points. The carriers are willing to establish from Memphis to the crossings and points beyond, rates on clean rice lower by 5 cents and on brewers' rice by from 1 to 3 cents per 100 pounds than the current rates from New Orleans, La., but ask authority to do so without regard to increase of discrimination against intermediate points. Upon prayer for the establishment of such differentials in favor of Memphis of 9 cents on clean and 5 cents on brewers' rice: *Held*, That the existing rates subject Memphis to undue prejudice and disadvantage and that the relationship proposed by the carriers will result in the elimination thereof, but authority not granted to increase discrimination against intermediate points, the carriers being expected either to make reductions thereto or to publish the rates proposed by them subject to rule 77 of Tariff Circular 18-A.

Chamber of Commerce Freight Bureau, Macon, Ga., v. C., N. O. & T. P. Ry. Co. (30 I. C. C., 477.)

3777. The existence of lower carload rates on shoe sole leather than on raw leather suitable for use in the manufacture of harness, bridles, and horse collars to Macon, Ga., from the Ohio and Mississippi River crossings and the Gulf ports not found to result in undue prejudice and disadvantage to the shippers of the latter.

Brownsville, Tex., class and commodity rates. (30 I. C. C., 479.)

3778. Respondents propose to increase the class rates and certain commodity rates from New Orleans, Harvey, and Port Chalmette, La., to Brownsville, Tex. The present rates to Brownsville violate the fourth section both as to points of origin and as to points of destination and were established to meet water competition. The suspended rates are based on the rate from New Orleans to Texas common points, plus the regular Brownsville differential. At the hearing respondents modified their proposal to the extent of observing Houston combinations as maxima wherever they are lower than the suspended rates: *Held*, 'That rates proposed by respondents at the hearing should be permitted to become effective with the exception of the rate on roasted coffee, which should be no higher than 5 cents over the rate contemporaneously maintained on green coffee.

Railroad Commission of Arkansas v. M. & N. A. R. R. Co. (30 I. C. C., 488.)

3779. That interstate passenger fares are higher on one road than fares charged by other carriers in the same general territory and higher than intrastate fares fixed under authority of State laws and not voluntarily accepted by the carrier are not sufficient facts to justify an order reducing such fares when the carrier making such charge is operating through a mountainous and sparsely settled country and is earning less than its taxes and cost of operation.

3780. It is not proof of extravagance that such carrier, operating through such territory and having a roadbed upon which there are sharp curves and steep grades, has a higher operating expense than another carrier in the same general territory having no such transportation difficulties.

3781. A passenger fare of 6½ cents a mile for that part of a railroad 12.37 miles long which runs through a mountainous and thinly populated country, the total earnings of the whole road being insufficient to pay operating expenses and taxes, is not, under all the circumstances shown here, unreasonably high.

3782. That the aggregate of intermediate fares prescribed by state authority and not voluntarily accepted or used in making the interstate fare, is less than the through interstate fare shows no violation of the act to regulate commerce.

American Coal & Supply Co. v. C. & N. W. Ry. Co. (30 I. C. C., 492.)

3783. Defendants' through charges for the transportation of soft coal from Indiana mines to Terra Cotta, Ill., via Chicago, found on the facts of record not unreasonable. Complaint dismissed.

Meridian Fertilizer Factory v. L. & N. R. R. Co. (30 I. C. C., 494.)

3784. Rate of \$3.56 per net ton for the transportation of phosphate rock from Mount Pleasant and Centerville, Tenn., to Shreveport, La., not found to be unreasonable or unduly prejudicial. Complaint dismissed.

Toledo Produce Exchange v. A. A. R. R. Co. (30 I. C. C., 498.)

3785. The schedule of rates required by the order in the original proceeding, dated June 23, 1913, is superseded by a new schedule substantially agreed upon by the interested parties subsequent to a further hearing had on petitions of the carriers for modification of the order.

Switching at Arcade, N. Y. (30 I. C. C., 501.)

3786. Tariff of respondent Buffalo, Attica & Arcade Railroad Company, which proposes to withdraw its switching charges on traffic handled by the Buffalo & Susquehanna Railway Company to and from industries on the line of respondent at Arcade, N. Y., ordered to be canceled.

Coal rates from Oak Hills, Colo. (30 I. C. C., 505.)

3787. Proposed joint rates of the Denver & Salt Lake Railroad Company and Chicago, Rock Island & Pacific Railway Company, for the transportation of bituminous coal from Oak Hills, Colo., to destinations on the line of the Rock Island found not to be justified, and Walsenburg district basis of rates via the Rock Island to the same destinations ordered in lieu thereof.

Rates on bananas from New Orleans, Galveston, and other Gulf ports to Topeka, Kans., Lincoln, and Beatrice, Nebr. (30 I. C. C., 510.)

In *Topeka Traffic Asso. v. A. & V. Ry. Co.*, 27 I. C. C., 428, the Commission held that the maintenance of higher rates by defendants for the transportation of bananas in carloads from New Orleans, La., and Galveston, Tex., to Topeka, Kans., than they contemporaneously maintained and charged to Lincoln and Beatrice, Nebr., was unjustly discriminatory against Topeka, and defendants were required to remove the discrimination. To comply with the Commission's order defendants proposed to increase the rates from the points named to Lincoln and Beatrice. The proposed increased rates having been suspended and a general investigation having been made into the rates on bananas from Gulf ports to points in Nebraska and Kansas, *Held*:

3788. That carriers have not justified the proposed increased rates from New Orleans, La., and Galveston, Tex., to Lincoln and Beatrice, Nebr., and that the schedules under suspension should be canceled.

3789. That the rate from New Orleans to Topeka, Kans., should not exceed the rate from New Orleans to Kansas City, Mo., by more than 8 cents per 100 pounds, and should not be higher than the rate contemporaneously charged from New Orleans to Lincoln or Beatrice, Nebr.

3790. That the rates from New Orleans to Hutchinson and Wichita, Kans., should not exceed the rate contemporaneously in effect from New Orleans to Topeka.

Lumber rates to Knoxville, Tenn. (30 I. C. C., 524.)

3791. Proposed increase of rates on lumber from Alabama points on Southern Railway to Knoxville, Tenn., found to be reasonable as to some rates and unreasonable as to others, and order of suspension vacated in part.

Onion rates to New York, N. Y. (30 I. C. C., 528.)

3792. In the effort to relieve a serious congestion of traffic at its Duane Street station, New York, N. Y., brought about by the manner in which onion shipments are handled at that station, the Erie Railroad is endeavoring to establish a market for this product at Jersey City: *Held*, That the tariffs under suspension should be permitted to go into effect and the respondent carrier be given an opportunity to try the experiment.

McCaa Coal Co. v. C. & C. Ry. Co. (30 I. C. C., 531.)

3793. In the distribution of coal cars during car-shortage periods the defendant arrived at the mine rate by adding to the estimated physical capacity the commercial capacity taken for the twelve-month prior period, dividing the result by two: *Held*, That in the instant case this method permits of discrimination and defendant will be required to distribute cars hereafter on basis figured on the average shipment per days worked by the mines located on its line taken for a two-year period prior to January 1, 1913.

3794. The proper distribution of cars is a question of fact to be determined according to the circumstances and conditions existing in each particular case.

Dunnage allowances. (30 I. C. C., 538.)

3795. Respondents having justified the cancellation from tariffs applying to points in southwestern territory of the provision for dunnage allowances on shipments in closed cars, the order of suspension will be vacated.

Decker & Sons v. C. M. & St. P. Ry. Co. (30 I. C. C., 547.)

Complainant assails the rates on fresh meat and packing-house products from Mason City, Iowa, to Chicago, as unreasonable and discriminatory; *Held*, That—

3796. The allegation that the rates on fresh meat and packing-house products are unreasonable *per se* has not been sustained.

3797. The rates from Mason City to Chicago are not discriminatory, as compared with the rates from competing points.

3798. The fact that Mason City pays different rates on fresh meats and packing-house products, whereas no difference in charge on the two is made from competing towns, is not in itself evidence of discrimination as against Mason City.

3799. A comparison of the rates from Mason City with those from competing points does not show that the former are discriminatory.

3800. Identity of ratio between commodity rates and the corresponding class rates is not indispensable to disprove absence of discrimination, especially where the divergence is moderate in amount. Complaint dismissed.

Richmond Chamber of Commerce v. S. A. L. Ry. (30 I. C. C., 552.)

Upon complaint that the defendants unduly discriminate against receivers of freight at Richmond, Va., by performing switching service on interstate carload freight without charge for one and refusing to perform a like service for another where the service is performed under like circumstances and conditions, and that they unduly discriminate against receivers and shippers of freight at Richmond by refusing to absorb switching charges on interstate carload freight from connecting lines in that city, while at the same time no charge is made for similar switching service at Norfolk, Va., and other points. *Held*, That—

3801. In cases where the traffic moves from the same points of origin and the switching charge is absorbed in the one case and not in the other there is a violation of section 2 of the act, as the existence of competition in the one case and not in the other clearly does not constitute a substantial dissimilarity of circumstances and conditions. Even, however, in the case of traffic which moves from different points and where section 3 alone may apply the competitive conditions relied upon are not sufficient to constitute a substantial dissimilarity of circumstances and conditions within the meaning of that section.

3802. The imposition of switching charges on interstate carload freight at Richmond while at the same time no charge of a like character is imposed at Norfolk on similar traffic constitutes undue discrimination against receivers and shippers of freight at the former point, which the defendants will be required to remove.

3803. Complaint with respect to unreasonable and discriminatory charges on trap, peddler, and station-order cars not sustained.

American Hay Co. v. C. V. Ry. Co. (30 I. C. C., 562.)

3804. Complainant, owner of a hay shed at St. Albans, Vt., had the privilege of reshipping hay to various destinations on old billing. To obtain this privilege complainant should have written "own billing" on the bill of lading. Complainant's agent wrote "new billing"; and, therefore, in accordance with the custom the carrier charged complainant the local rate from St. Albans. Complainant claimed as reparation difference between the through rate and the rate paid; *Held*, That where the option of a transit privilege exists, the duty rests primarily on the shipper who elects to qualify for the enjoyment of said transit option, to make clear affirmatively to the carrier said shipper's right thereto and said shipper's intention and desire to avail himself thereof; failing which, the carrier, especially when following shipper's written instructions in the premises, may fairly assume that the shipment is intended to be made without the benefit of transit privilege. Complaint dismissed.

Ontario Iron Ore Co. v. N. Y. C. & H. R. R. Co. (30 I. C. C., 566.)

3805. Upon all the facts disclosed by the record the Commission is of the opinion that the present rate of \$1.10 per gross ton for the transportation of iron ore in carloads from Fruitland and Ontario, N. Y., to Emporium, Pa., and the present rate of \$1.60 per gross ton on the same traffic to Earlston, Saxton, and Riddlesburg, Pa., have not been shown to be unreasonable nor unjustly prejudicial. The present rate of \$1.60 per gross ton to Curtin, Milesburg, and Bellefonte, Pa., found unreasonable to the extent it exceeds \$1.40.

Omaha Grain Exchange v. N. P. Ry. Co. (30 I. C. C., 572.)

Upon prayer for the establishment of joint rates upon grain in carload lots from Montana points on the Northern Pacific Railway west of Billings over the Chicago, Burlington & Quincy Railroad, via Billings, to Omaha and South Omaha, Nebr., and Council Bluffs, Iowa; and upon prayer for the establishment from stations in Montana, North Dakota, and South Dakota on the Chicago, Milwaukee & St. Paul Railway of rates upon grain in carload lots to Omaha, South Omaha, and Council Bluffs, not greater than those contemporaneously charged for the transportation of grain by said carrier from the same points of origin to Duluth and Minneapolis; *Held*—

3806. That defendants Northern Pacific Railway Company and Chicago, Burlington & Quincy Railroad Company should establish and maintain joint rates on grain, from Montana points on the line of the Northern Pacific Railway Company west of Billings, to Omaha, South Omaha, and Council Bluffs, not higher than the rates contemporaneously maintained from the same points of origin to Minneapolis, Minn., via the Northern Pacific Railway.

3807. That the essential disparity in the distance traversed over the Chicago, Milwaukee & St. Paul Railway as between points of origin in Montana, North Dakota, and South Dakota, and Minneapolis on the one hand, and between said

points of origin and Omaha on the other hand, warrants a difference in the rate that may be charged for the contrasted hauls; that the difference in the rates now charged of 5 cents is unjustly discriminatory and prejudicial; and that, except where at present equal rates apply, the defendant carrier should establish from said points of origin to Omaha, South Omaha, and Council Bluffs, a rate not to exceed by more than 2 cents per 100 pounds the rate contemporaneously charged from said points of origin to Minneapolis.

Switching at Baltimore, Md. (30 I. C. C., 581.)

3808. Proposed increases in rates for the transportation of carload freight from the connection between the Northern Central Railway and Western Maryland Railroad in Baltimore, Md., to and from certain points on the "block route" in said city, found not to have been justified. Tariffs naming the increased rates required to be canceled.

Hans Rees' Sons v. S. Ry. Co. (30 I. C. C., 585.)

3809. The rate of 6 cents per 100 pounds on tanbark from Delrio, Tenn., to Asheville, N. C., not found to be unjustly discriminatory. Complaint dismissed.

3810. The cancellation of the application of the North Carolina intrastate mileage scale of rates on tanbark from stations on the lines of the defendant in South Carolina to North Carolina tanning points and the placing of that commodity on the same rate basis as lumber and other forest products, found justified. Order of suspension vacated.

Malt rates to New Orleans, La. (30 I. C. C., 587.)

3811. Proposed increased rate on malt in carload lots from Minneapolis, Minn., to New Orleans, La., found reasonable, and order of suspension vacated.

Virginia Highlands Citizens' Asso. v. W. Va. Ry. Co. (30 I. C. C., 593.)

3812. Commutation fares charged by defendant for the transportation of passengers between its terminal at Twelfth and D streets northwest, Washington, D. C., and Addison and Virginia Highlands, in the state of Virginia, found to be unduly discriminatory as compared with its commutation fares between said terminal and other points on the Mount Vernon division of its lines.

3813. The regular one-way and round-trip fares between said points not found to be unreasonable.

Sloss-Sheffield Steel & Iron Co. v. L. & N. R. R. Co. (30 I. C. C., 597.)

Operators of blast furnaces in Alabama and Tennessee complain that the existing rates on pig iron from the south to Ohio River crossings, to points north and east thereto all rail, and to New England, all rail and water, are unreasonable and unjustly discriminatory. The rates from Chattanooga, Tenn., are made certain differentials under Birmingham and as these differentials have not been questioned, the entire southern situation dealt with by considering only Birmingham, which district is representative of the Alabama operations. Louisville is representative of Ohio River crossings, as Chicago and Boston are illustrative of central freight association territory and the east respectively. On the facts of record, *Held*, That:

3814. The rates now exacted from the Birmingham district to Louisville, St. Louis, Chicago, and to Boston, rail and water, are unreasonable. Reasonable rates prescribed.

3815. The present differentials between the southern furnaces should be maintained, as should also the relation of rates now obtaining to the Ohio River, to points in central freight association territory, and to the east. No change will be ordered in the proportional rates to the Ohio River at this time for the reason that this would throw the entire reduction upon the southern lines. The proportional rates to and from the Ohio River should be so revised as to make the through rate to Chicago, for example, not in excess of \$4 per gross ton.

3816. The existing rail-water-and-rail rates from Birmingham to interior New England points are unreasonable. Reasonable rates to Springfield, Mass., Portland, Me., and Lowell, Mass., prescribed, with like reductions in the rates to other interior New England points.

3817. Sufficient testimony has not been presented upon which a definite finding with respect to the all-rail rates to New England can be made. As to the reasonableness of the present differentials between all rail and rail and water no opinion is expressed, but nothing herein said must be taken as a justification

for any increase in such differentials. With this understanding, the readjustment of their all-rail rates to New England points is left to the carriers.

3818. Award of reparation should be denied.

Page Milling Co. v. N. & W. Ry. Co. (30 I. C. C., 605.)

3819. Complainants assail as unreasonable and unjustly discriminatory defendant's rates on flour and grain products from milling points on its Shenandoah division in Virginia and West Virginia to points on its Pocahontas division and Clinch Valley extension in Virginia and West Virginia; *Held*, That the Commission is not convinced on the facts of record that the rates complained of are unjustly discriminatory or otherwise in violation of law. Complaint dismissed.

Molasses rates to Knoxville, Tenn. (30 I. C. C., 613.)

3820. Proposed domestic rate of 33 cents per 100 pounds on "blackstrap" molasses in carloads, being the same rate which governs the transportation of all other molasses from New Orleans, La., to Knoxville, Tenn., found to be justified, except in so far as it may violate the long-and-short-haul clause in comparison with a rate of 32 cents to Bristol, Tenn.

Low Moor Iron Co. v. C. & O. Ry. Co. (30 I. C. C., 615.)

3821. Upon complaint of certain producers of pig iron in Virginia that the rates quoted to them for the transportation of pig iron from their furnaces to points in New England and the middle Atlantic states are unreasonably high as compared with rates quoted to producers of pig iron at competing points in Pennsylvania and New York; *Held*, That said rates are unreasonable and unjustly discriminatory and should not exceed the rates named herein.

In the matter of rates on tropical fruits from Gulf ports to various destinations. (30 I. C. C., 621.)

Carriers transporting tropical fruits from Gulf ports to various points of destination in the states of Missouri, Oklahoma, Arkansas, Kansas, Iowa, Minnesota, Nebraska, South Dakota, Illinois, Wisconsin, etc., at lower rates than are charged to intermediate points ask to be allowed to continue the making of higher rates to intermediate points, *Held*, That—

3822. Carriers engaged in the transportation of bananas and coconuts from Galveston and other Texas ports to points east of the Missouri River and the line of the Kansas City Southern Railway Company should be allowed relief from the fourth section to meet the competition of rail lines from New Orleans engaged in the transportation of the same commodities imported through that port.

3823. Carriers whose lines are circuitous engaged in transporting bananas and coconuts from Galveston and other Texas ports to points on and west of the Missouri River and the line of the Kansas City Southern Railway Company granted relief from the fourth section in cases where their lines are 15 per cent longer than the more direct lines between the same points.

3824. Carriers transporting tropical fruits from New Orleans and Port Chalmette, La., Mobile, Ala., and Pensacola, Fla., to points on and west of the Mississippi River, whose lines are 15 per cent longer than the short line between the same points granted relief from the fourth section.

3825. All other relief prayed for in said applications Nos. 639 and 2176, respecting rates on tropical fruits from Texas ports to all destinations and from other Gulf ports to destinations on and west of the Mississippi River, denied.

Coal rates from Virginia mines. (30 I. C. C., 635.)

3826. The rates on coal from the mines in the St. Charles, Va., group to points north of the Ohio River within 400 miles from St. Charles should not exceed the rates from the Middlesboro-Jellico group to said destinations by more than 10 cents per ton; beyond that the differential should decrease not less than 1 cent for each additional 100 miles.

3827. The rates on coal from the mines in the Appalachia group and the mines at Benham, Ky., should not exceed the rates from the Middlesboro-Jellico group to points north of the Ohio River by greater amounts than the present differentials, provided that the differentials of Appalachia over Middlesboro-Jellico should in no case be less than the differentials of St. Charles over Middlesboro-Jellico.

3828. The prescribed differentials being maxima, the carriers are at liberty to establish smaller ones whenever commercial conditions may so require.

3829. Respondents required to cancel rates exceeding those prescribed in the report, but suspension order vacated as to all other rates named in the tariff under suspension.

Rates on fencing and fencing material from Anderson and other points in Indiana to Texarkana, Ark.-Tex., and other points. (30 I. C. C., 650.)

3830. For reasons given in the report herein the order of suspension in this proceeding must be vacated.

Milwaukee Produce & Fruit Exchange v. Crosby Transportation Co. (30 I. C. C., 653.)

3831. Former through route and joint rates of the Grand Rapids, Grand Haven & Muskegon Railway Company and the Crosby Transportation Company from points on the former line, except Grand Rapids, Grand Haven, and Muskegon, Mich., to Milwaukee, Wis., ordered to be reestablished in so far as necessary to provide for the transportation of fresh fruits.

People's Fuel & Supply Co. v. G. T. W. Ry. Co. (30 I. C. C., 657.)

3832. The Minneapolis, St. Paul & Sault Ste. Marie Railway Company and the Grand Trunk Western Railway Company, in compliance with an order of the Commission established a joint rate for the transportation of ice from Silver Lake, Wis., to a point of delivery on the tracks of the Grand Trunk Western Railway in Chicago, Ill. Upon petition of the first-named carrier asking that the Commission fix, in accordance with the provisions of section 15 of the act, the divisions and the portion to be received by each of the carriers out of that rate: *Held*, That for reasons stated in the report the Grand Trunk Western Railway should receive, and the Minneapolis, St. Paul & Sault Ste. Marie Railway should allow to it, the regular reciprocal switching charge applicable, under the provisions of the Lowrey tariff, to reciprocal switching in the Chicago district.

Minneapolis Civic & Commerce Asso. v. C., M. & St. P. Ry. Co. (30 I. C. C., 663.)

3833. Defendant's present class rates from Minneapolis and St. Paul, Minn., to points on its transcontinental line in South Dakota and North Dakota for distances up to 600 miles found unjust and unreasonable in so far as they exceed the rates named in the report.

In the matter of the separation of operating expenses. (30 I. C. C., 676.)

3834. The question of requiring carriers to separate their operating expenses between freight and passenger services as outlined in statistical series circular No. 3 being considered by the Commission: *Held*, That sufficient reason exists for requiring the extension of this separation beyond what has been required heretofore in the Commission's annual report.

3835. Circular No. 3 will be revised and if sufficient progress can be made carriers will be asked to file a special report for the year ending June 30, 1915.

3836. As early as practicable all carriers of Class I will be required to assign and apportion all operating expenses between passenger and freight services on bases which will be prescribed.

Transportation Bureau of the New Seattle Chamber of Commerce v. G. N. Ry. Co. (30 I. C. C., 683.)

3837. The defendant's commodity rate of 3 cents per 100 pounds, applicable to the movement of shingles and lumber from Ballard to Seattle for interchange at the latter place with other roads held not to be unreasonable in so far as it results in charges not greater than \$10.50 per car.

3838. The arrangement suggested by the Great Northern for joint rates between it and the Chicago, Milwaukee & St. Paul Railway on the flat Seattle basis, applicable to traffic from complainants' mills to noncompetitive local points on the latter road, is a proper one and should be adopted.

3839. Apart from the possible consequences flowing from the nature of the service or the form of the charge, defendant's contention that the Commission should prohibit the absorption by competitive roads of its established charges applicable to the movement over its terminal between Ballard and Seattle, is not sustained. Assuming it is possible to prevent absorption, the proviso in the second paragraph of section 3 of the act does not impose such a duty upon the Commission. The Commission's duty is to pass upon the reasonableness

of the established charges, and the act does not require that in so doing it shall take into its calculations the consideration of the possibility of the absorption of the charge by competitive roads.

Grain elevation allowances at St. Louis, Mo., and East St. Louis, Ill. (30 I. C. C., 696.)

3840. The withdrawal by respondents of an elevation allowance of one-fourth cent per bushel at St. Louis and East St. Louis on grain when destined to Evansville, Ind., found to have been justified, it appearing that elevation at these points on such business is not a transportation necessity, and that the proportional out of which the allowance is made is a compelled rate. A comparison of rates from St. Louis and East St. Louis to Evansville with that from Peoria to the same destination does not necessarily signify undue discrimination if the withdrawal of the respondents' concurrence in the rate from the latter point would not affect the movement, rates, or practices respecting elevation. The test of discrimination is the ability of one of the carriers participating in the two through routes to put an end to the discrimination by its own act. *Coke Producers' Asso. of Connellsville v. B. & O. R. R. Co.*, 27 I. C. C., 125.

Merchants Exchange of St. Louis, Mo., v. B. & O. R. R. Co. (30 I. C. C., 700.)

3841. Record not sufficient to enable Commission to determine reasonableness of regulation requiring shippers of grain to surrender their expense bills covering inbound shipments in order to obtain the benefit of reshipping rates from St. Louis, Mo., and East St. Louis, Ill., to central freight association and trunk line territories, which rates apply regardless of the point of origin of the original shipment. Case reopened.

Augusta Cotton Exchange and Board of Trade v. S. Ry. Co. (30 I. C. C., 704.)

3842. Rates on cotton to Augusta, Ga., from South Carolina stations on Southern Railway held to be unreasonable to the extent that they exceed rates from same points which were in effect prior to September 23, 1909, the rates then in effect being on the basis of the South Carolina scale.

Trier v. C., St. P., M. & O. Ry. Co. (30 I. C. C., 707.)

Upon petition for rehearing filed by complainant in the above-entitled cause, *Held*, That—

3843. For the purpose of determining the reasonableness of an interstate rate, a rate established by the state is no more to be presumed reasonable than one voluntarily established by a carrier.

3844. Even though the fare charged for an interstate journey exceed the sum of an interstate local and a state local for the respective stretches of the route included in the interstate journey, the burden of proof is upon complainant to prove the unreasonableness of the fare charged for the interstate journey as an entirety.

3845. An interstate rate should be deemed indivisible in gauging its justice and reasonableness.

Bowling Green Business Men's Protective Asso. v. L. & N. R. R. Co. (31 I. C. C., 1.)

3846. The construction of through rates from Chicago and Milwaukee territories to Nashville, Tenn., by the addition of proportional rates from points of origin to the Ohio River to the local rates from the river to Nashville, contrasted with the construction of rates to Bowling Green by the addition of the local rates to and from the river crossings, not found to result in undue discrimination against Bowling Green.

3847. The construction of through rates from Indianapolis territory to Nashville by the addition of proportional rates from points of origin to Louisville to the local rates from that point to Nashville contrasted with the construction of through rates to Bowling Green by the addition of the local rates to and from Louisville found to discriminate unjustly against Bowling Green.

3848. The construction of through rates from Indianapolis territory to Nashville by the addition of proportional rates from points of origin to Ohio River crossings other than Louisville contrasted with the construction of through rates to Bowling Green by the addition of the local rates to and from Ohio River crossings not found to result in undue discrimination against Bowling Green.

Southern Hardwood Traffic Bureau v. I. C. R. R. Co. (31 I. C. C., 6.)

3849. Rates on lumber from Batesville, Miss., to central freight association, western trunk line, and trunk line territories held to be unduly prejudicial to the extent that they exceed rates to the same destinations from Sardis, Miss., 9 miles north of Batesville.

Hughes' Creek Coal Co. v. K. & M. Ry. Co. (31 I. C. C., 10.)

3850. In the subnumbered case, *Kelly's Creek Colliery Co. v. Kanawha & Michigan Ry. Co.*, the Commission originally held that the defendants should establish through routes and joint rates between stations on the Kanawha & Michigan Railway and its branches and the points specified in the complaint in eastern and southeastern territory on the lines of the Chesapeake & Ohio and its connections, and that as reasonable rates for these routes defendants should apply rates not in excess of those applying to these destinations for shipments from the mines on the Chesapeake & Ohio. Upon reconsideration of the case; *Held*, That there may properly be a slight difference between the rates applicable to the through routes ordered and those applicable to the single movement on the Chesapeake & Ohio. This difference should not exceed 5 cents per ton.

Lumber rates from Thebes, Ill. (31 I. C. C., 15.)

3851. Proposed cancellation of proportional rates on lumber and forest products from Thebes, Ill., to points in southwestern Illinois on the Chicago, Burlington & Quincy Railroad via the Iron Mountain to Herrin and the Chicago, Burlington & Quincy beyond, found to be justified and order of suspension vacated.

3852. The rates charged protestant should be maintained upon the same relative basis on the movement of lumber from Thebes to points herein involved as the rates charged its competitors located on the St. Louis & San Francisco Railroad and its connections.

Class and commodity rates from stations in Maine. (31 I. C. C., 18.)

3853. Proposed increase in class and commodity rates from points on the Maine Central Railroad to points in central freight association territory not found to have been justified. Tariffs naming the increased rates required to be canceled.

Wolverton v. U. P. R. R. Co. (31 I. C. C., 23.)

3854. Complaint is made that double the first-class rate charged for the transportation of an automobile, crated, from Wamsutter, Wyo., to Boulder, Colo., was unreasonable to the extent that it exceeded the first-class rate. The evidence shows that the automobile was not crated in accordance with the classification requirement, and that double the first-class rate was the published rate for such a shipment. Complaint dismissed.

Humphreys-Godwin Co. v. Y. & M. V. R. R. Co. (31 I. C. C., 25.)

Complainant made shipments of cottonseed meal from Helena, Ark., to certain New England points. The shipments were consigned in the first instance to itself at Louisville, Ky., but while en route defendants at Louisville were furnished with instructions to forward the shipments to the respective New England destinations. The joint through rate was 33 cents; the sum of the intermediate rates via Louisville was 30½ cents. Upon complaint alleging that the shipments to and from Louisville were separate and distinct transactions and that the shipments should have been charged at the intermediate rates, *Held*:

3855. That the shipments were not handled under such circumstances as to have constituted separate and distinct shipments to and from Louisville.

3856. The fact that a joint rate exceeds the sum of the intermediate rates over the same through route raises a strong presumption that the joint through rate is unreasonable to the extent it exceeds the sum of such intermediate rates, but the presumption is not conclusive and may be rebutted by evidence to the contrary. Under the circumstances of the instant case the presumption of unreasonableness inhering in the 33-cent rate is held to be satisfactorily rebutted by the evidence of record. Complaint dismissed.

Southern States Supply Co. v. S. Ry. Co. (31 I. C. C., 30.)

3857. Rate of 22 cents per 100 pounds on cast-iron pipe in carloads from Birmingham, Ala., to Columbia, S. C., not found unreasonable or unduly prejudicial. Complaint dismissed.

In re financial transactions of the New York, New Haven & Hartford R. R. Co. (31 I. C. C., 32.)

3858. In response to a resolution of the Senate, the results of a further investigation by the Commission into the financial transactions of the New York, New Haven & Hartford Railroad Company are submitted in the report, with expressions of opinion and recommendations.

Pueblo Commerce Club v. D. & R. G. R. R. Co. (31 I. C. C., 133.)

3859. Defendant's second, third, fourth, and fifth class rates from Pueblo, Colo., to Durango, Colo., via an interstate route, not shown to be unduly discriminatory or prejudicial. Complaint dismissed.

Thompson v. A., T. & S. F. Ry. Co. (31 I. C. C., 138.)

3860. Rate of \$1 per 100 pounds established for the transportation of apples in carloads from Espanola, N. Mex., to points in Arizona. Reparation awarded.

Downie Pole Co. v. N. P. Ry. Co. (31 I. C. C., 142.)

3861. Reparation awarded for damages sustained by reason of refusal of Northern Pacific Railway to furnish cars except on certain conditions as to routing.

Nix & Co. v. S. Ry. Co. (31 I. C. C., 145.)

3862. Rates for the transportation of apples from points in the producing territory of Virginia to eastern cities not found unreasonable or unjustly discriminatory. Complaint dismissed.

3863. The fact that a carrier has published rates which contravene the long-and-short-haul rule of the fourth section of the act, without authority therefor, is not of itself a sufficient basis for an award of reparation in the absence of proof of damage to the shipper.

Stock & Sons v. L. S. & M. S. Ry. Co. (31 I. C. C., 150.)

3864. Defendant's milling-in-transit charge of one-half cent per 100 pounds and its charges for out-of-line and back-haul movements of grain to the milling point, in connection with shipments milled in transit, not found to be unreasonable or unjustly discriminatory. Complaint dismissed.

In the matter of the investigation and suspension of advances in rates by carriers for the transportation of boots and shoes from Boston, Mass., and other points to Atlanta, Ga. (31 I. C. C., 154.)

3865. Respondents herein having failed to justify the increase proposed in their rates on boots and shoes from Boston, New York, and other eastern port cities to Atlanta, Ga., via water-and-rail routes, they are required to maintain for the future rates on this traffic not in excess of those at present in effect, which were prescribed by the Commission as maxima in the case of *Kiser & Co. v. C. of G. Ry. Co.*, 17 I. C. C., 430.

In the matter of applications of carriers for relief from the provisions of the fourth section of the act to regulate commerce. (31 I. C. C., 159.)

3866. Carload rates applied on shipments of deciduous fruit during the year 1911 from California points to Montgomery, Ala., and to Tampa, Fla., held not shown to have been unreasonable by comparison with the lower blanket rate applicable to destinations north of the Ohio River. Reductions, however, may be expected to follow the pending negotiation between the carriers, and unless such reductions are made within a reasonable time the Commission will make a further examination of the matter and prescribe rates. The portion of the present through rate for the movement between the basing point, Jacksonville, Fla., and Tampa, Fla., is not shown upon the present record to be unreasonable.

3867. The fourth section application of the carriers to maintain higher rates to Montgomery than to various points in central freight association and eastern territory to which Montgomery is intermediate is granted.

Kaufman Commercial Club v. T. & N. O. R. R. Co. (31 I. C. C., 167.)

3868. Defendants' rates on grain and grain products from points in Kansas and Oklahoma to Kaufman, Tex., found to be unduly prejudicial, and rates prescribed not in excess of those contemporaneously maintained to Terrell, Tex.

Beatrice Commercial Club v. C., B. & Q. R. R. Co. (31 I. C. C., 173.)

3869. Rates on coal from Milwaukee, Wis.; Chicago and East St. Louis, Ill.; the coal fields of southern Illinois; southern Iowa; northern Missouri; the

Kansas-Missouri districts, and the Spadra, Ark., district, to Beatrice, Nebr., not found to be unduly prejudicial as compared with lower rates to Lincoln, Nebr., to which point Beatrice is intermediate. Complaint dismissed and carriers relieved from operation of the long-and-short-haul rule.

Burford v. Louisville & Nashville R. R. Co. (31 I. C. C., 182.)

3870. Refusal by the Louisville & Nashville Railroad Company and the Nashville, Chattanooga & St. Louis Railway to enter into arrangements with the Tennessee Central Railroad Company for through routes and joint interstate passenger fares from points on their lines to points on the latter line at which complainants' resorts are located, while participating in through routes and joint fares to resorts on the lines of the Southern Railway Company, Illinois Central Railroad Company, and other carriers, found to be unjustly discriminatory.

Lumber to Nashville, Tenn. (31 I. C. C., 186.)

3871. Proposed increased rates on lumber from points in Kentucky and Tennessee to Nashville, Tenn., found unreasonable, and carriers required to cancel proposed rates.

Lumber rates from Oregon and Washington to eastern points. (31 I. C. C., 191.)

3872. Upon the showing made the Union Pacific lines are permitted to close the Colorado gateways for general traffic between exclusive points of that system in the States of Oregon and Washington and points on and east of the Missouri River.

In the matter of the relation of common carriers subject to the act to regulate commerce to coal and oil and the transportation thereof. (31 I. C. C., 193.)

3873. The relations of trunk lines and their officials to coal operations in the State of Illinois and incidentally in the State of Indiana, described, pursuant to the so-called Tillman-Gillespie resolutions.

Lumber rates from Southern Railway points to eastern points. (31 I. C. C., 244.)

3874. Respondent has not justified the proposed increased rates on lumber from points in North Carolina, South Carolina, and Tennessee to eastern points, and an order will be entered requiring the carriers to cancel the tariffs, but without prejudice to the right of respondent to present another plan of revision of its lumber rates from this territory designed to bring about greater uniformity in the rates than now exists.

Rental charges for insulated cars. (31 I. C. C., 255.)

3875. Proposed charge of \$5 per car per trip for the use of a refrigerator car in the movement of potatoes from points of origin in Minnesota and neighboring states not found to be unreasonable. Order of suspension vacated.

Lumber rates from Lake Charles and West Lake, La. (31 I. C. C., 258.)

3876. Respondents having justified the proposed increased rates on lumber from Lake Charles and West Lake, La., to Palacios, Port Lavaca, Aransas Pass, Portland, Rockport, and Corpus Christi, Tex., the order of suspension will be vacated.

In re financial relations, rates, and practices of the Louisville & Nashville Railroad Co., Nashville, Chattanooga & St. Louis Railway, and other carriers. (31 I. C. C., 261.)

3877. Pursuant to paragraph 13 of Senate resolution 153, the preliminary report herein is submitted in regard to passes granted to specified classes on the roads involved during the year ending December 31, 1913.

Check & Sons v. C. P. Ry. Co. (31 I. C. C., 265.)

3878. The failure of these defendants to carry into Nashville, Tenn., the same commodity rates on products from California terminals, etc., and from British Columbia, etc., as now obtain to 21 specified destinations in Tennessee, Alabama (including Birmingham and Tuscaloosa), Kentucky, Indiana, Illinois, and Ohio, does not constitute unjust discrimination against Nashville.

3879. Certain commodity rates on products from California terminals, etc., and from British Columbia, etc., to Nashville, Tenn., found unreasonable *per se* in so far as they exceeded certain combination rates. Reparation awarded.

3880. Such commodity rates also found unreasonable in so far as they exceed what are herein denominated "unavailable combination rates."

3881. Commodity rates on such articles from said points to Nashville should not in the future exceed the lowest figures now available, either as published through rates, published combination rates, or unavailable combination rates.

Globe-Wernicke Co. v. B. & O. R. R. Co. (31 I. C. C., 274.)

3882. The rating in the official classification of one and one-half times first class on sectional bookcases, boxed, not found unreasonable or unjustly discriminatory; complaint dismissed.

Allentown Portland Cement Co. v. P. & R. Ry. Co. (31 I. C. C., 277.)

3883. Finding in original report that defendants in maintaining or participating in rates on cement in carloads to eastern destinations, such as Baltimore, Philadelphia, New York, and New England points, which are not higher from Evansville than the rates which they contemporaneously maintain or participate in from other mills in the Lehigh district, while refusing contemporaneously to participate in the same relative adjustment from Evansville to Jersey City, thereby subject Jersey City and its traffic to undue prejudice and disadvantage. affirmed.

Decatur Navigation Co. v. L. & N. R. R. Co. (31 I. C. C., 281.)

Upon petition for an order of this Commission requiring defendants to join with complainant in establishing through routes and joint rates between certain Tennessee River landings and eastern destinations, the same as those published by defendants in conjunction with the Tennessee River Navigation Company, *Held*, That—

3884. A navigable river being a public highway, a responsible common carrier operating thereon is prima facie warranted in requesting this Commission to require defendants to join with such carrier in establishing through routes and joint rates between landings on the river and points on defendants' lines.

3885. The refusal of defendants to join with complainant in the establishment of through routes and joint rates from landings on the Tennessee River between Chattanooga and Lock No. 6 is unlawful, and defendants will be required to join with complainant in establishing through routes and joint rates between those landings and points on the line of defendants and their rail connections.

Phoenix Printing Co. v. M., K. & T. Ry. Co. (31 I. C. C., 289.)

3886. Rates on new print paper from Minnesota mills and Wisconsin mills to Muskogee, Okla., found to be unreasonable, and carriers required to publish lower rates found to be reasonable. Reparation awarded.

Switching at Galesburg, Ill. (31 I. C. C., 294.)

3887. The Commission had power to suspend the tariff provision in controversy which proposed the cancellation of a switching rate of \$2 per car applicable to the interchange of traffic between the tracks of the Rock Island Southern system and industries on the terminals of respondent Chicago, Burlington & Quincy Railroad Company at Galesburg, Ill.

3888. Under the circumstances of this case it is unjust discrimination for such respondent to refuse the use of its terminal facilities to the Rock Island Southern while affording their use to the Atchison, Topeka & Santa Fe Railway Company, and this discrimination should be removed.

3889. It is not found, however, that the so-called reciprocal switching charge of \$2 is necessarily a just charge for the service demanded of the Burlington by the Rock Island Southern. Facts upon which to determine this charge are not found in the record.

3890. The contention of the respondent that it has a right to exclude the Rock Island Southern from its terminals under all circumstances, and that to compel it to permit their use at any practicable charge would be to give the terminals to the Rock Island Southern in violation of the proviso in the second paragraph of section 3 can not be sustained. The terminals of a railroad may be regulated and the Commission may establish through routes and joint rates from points on the terminal to points on connecting lines. *Waverly Oil Works Co. v. P. R. R. Co.*, 23 I. C. C., 621. A similar jurisdiction might be exercised respecting the situation at Galesburg.

Bowling Green Business Men's Protective Asso. v. Evansville & Bowling Green Packet Co. (31 I. C. C., 301.)

3891. Through rail-and-water routes established between New York, Pittsburgh, Syracuse, Detroit, Cleveland, Indianapolis, Chicago, St. Louis, and Bowling Green, Ky., via lines of defendant rail carriers and defendant Evansville & Bowling Green Packet Company; defendants to make joint rates subject, if necessary, to review by the Commission.

Packing-house products from Iowa points. (31 I. C. C., 308.)

3892. An increase from 15 cents to 18½ cents in the rate on packing-house products from Cedar Rapids and other points in Iowa to St. Paul and Minneapolis sustained upon the facts adduced of record.

Louisiana Sugar Planters' Asso. v. I. C. R. R. Co. (31 I. C. C., 311.)

3893. Import rates on blackstrap molasses from Mobile, Ala., and from New Orleans and other Louisiana points to St. Louis, Mo., and East St. Louis, Ill., and various points beyond found to be unduly preferential as compared with higher domestic rates on blackstrap molasses from the same points of origin to the same points of destination, and the carriers required to remove the discrimination by reducing the difference made between the import rates and the domestic rates.

3894. Respondents required to cancel special import rates on blackstrap molasses based on agreed value unless they so revise their tariffs as to reduce the proposed difference between domestic rates and import rates, and so as to also reduce the proposed difference between the rates based on agreed value and the unconditional rates on blackstrap molasses.

Wichita Business Asso. v. C. & O. W. Ry. Co. (31 I. C. C., 323.)

3895. Class rates from Wichita, Kans., to points in Oklahoma on the Clinton & Oklahoma Western Railway found to be unreasonable to the extent they exceed the so-called Kansas-Oklahoma one-line distance rates by more than certain prescribed differentials.

3896. Commodity rates on grain, seeds, and broom corn between Wichita, Kans., and points on the Clinton & Oklahoma Western Railway found to be unreasonable and reasonable rates prescribed.

Michigan Mfrs.' Asso. v. P. M. R. R. Co. (31 I. C. C., 329.)

3897. Complaint that certain provisions of the uniform demurrage code applied to traffic in the state of Michigan are unjust and unreasonable not sustained. Complaint dismissed.

Dixie Manufacturing Co. v. B., C. & A. Ry. Co. (31 I. C. C., 337.)

3898. Official classification ratings on dust collector or arrester outfits not shown to be unreasonable. Complaint dismissed.

Lamb-Davis Lumber Co. v. G. N. Ry. Co. (31 I. C. C., 341.)

3899. Rate of 60 cents per 100 pounds for the transportation of pine box shooks in carloads from Leavenworth, Wash., to Paonia, Hotchkiss, and Austin, Colo., found unreasonable. Reparation awarded.

Wabash Sand & Gravel Co. v. V. R. R. Co. (31 I. C. C., 344.)

3900. Complainant has a sand and gravel pit on the Chicago, Terre Haute & Southeastern Railway within the switching limits of Terre Haute, Ind. That carrier performs a switching service only on interstate shipments forwarded by complainant to points on the Vandalia Railroad. Each defendant denies that it is legally bound to furnish equipment for these shipments. *Held*, That it is the duty of the Vandalia Railroad to furnish complainant with cars for the traffic in question, and to do so without undue discrimination in favor of shippers located upon its own line.

3901. Complainant asks that defendants be required to provide for reimbursement of shippers for repairs made on cars to fit them to hold sand and gravel. Following *Balfour, Guthrie & Co. v. O. W. R. R. & N. Co.*, 21 I. C. C., 539, prayer denied.

Adleta v. C. & N. W. Ry. Co. (31 I. C. C., 347.)

3902. Rates on wrapping paper from Michigan mills and Wisconsin mills to Muskogee, Okla., found to be unreasonable, and carriers required to publish lower rates found to be reasonable. Reparation awarded.

The Five Per Cent case. (31 I. C. C., 351.)

3903. Upon the record, found that the net operating income of the carriers in official classification territory, considered as a whole, is smaller than is demanded in the public interest; but that no showing has been made warranting a general increase in trunk-line rates, in rail-and-lake rates, or in the rates on traffic moving between the different rate territories in official classification territory.

3904. An increase by 5 per cent in the intraterritorial class and commodity rates in central freight association territory approved, subject to the qualifications described in the report. The need of a general readjustment of rates in that territory discussed.

3905. Suggestions made for consideration by all the carriers in official classification territory as to the methods by which they may increase their net income other than by a general rate increase. Special attention is called to the existence of many individual rates and charges apparently unremunerative.

Jung & Sons Co. v. L. & N. R. R. Co. (31 I. C. C., 455.)

3906. Defendant's practice of refusing to issue new bills of lading, concealing the names of the original shippers, in exchange for old bills of lading, in cases where cars are reconsigned at the termini of their lines, not found to be unreasonable. Complaint dismissed.

Royster Guano Co. v. A. C. L. R. R. Co. (31 I. C. C., 458.)

3907. Rates for the transportation of fertilizers in carloads from Norfolk, Va., to points in central and eastern North Carolina considered. Upon the facts shown of record, and for the reasons stated in the report, a mileage scale of rates established for the future.

3908. Applications of defendants for authority to continue to charge a lower rate on fertilizers and fertilizer materials from Norfolk, Va., to Wilmington, N. C., than to intermediate points, denied.

California-Nevada lumber rates. (31 I. C. C., 464.)

3909. Upon reargument, *Held*, That the present rates should not be disturbed.

Carroll, Brough & Robinson v. A., T. & S. F. Ry. Co. (31 I. C. C., 466.)

3910. Rate of 45 cents per 100 pounds on canned goods in carloads from Galveston, Tex., to Oklahoma City, Okla., found to be discriminatory against Oklahoma City as compared with the Texas intrastate rate quoted by the carriers to certain north Texas points which compete with Oklahoma City.

Pacific Navigation Co. v. Southern Pacific Co. (31 I. C. C., 472.)

Complainant, a common carrier operating steamers between San Francisco, San Pedro, and San Diego, Cal., asks that the rail carriers, defendants herein, be required to establish through routes and joint fares with its steamers to the same extent as at present maintained with the Pacific Coast Steamship Company and the San Francisco & Portland Steamship Company; *Held*, That—

3911. Defendants should establish through routes and joint fares with complainant.

3912. In so far as the Western Pacific Railway, and the San Pedro, Los Angeles & Salt Lake Railroad and their connections are concerned, the Commission unquestionably has jurisdiction to require the establishment of through routes and joint fares with complainant's steamers. These carriers have no rail lines between San Francisco and Los Angeles and the question of short hauling themselves can not, therefore, be raised.

3913. Under the circumstances of the present case, the Southern Pacific and the Santa Fe, which have rails of their own between San Francisco and Los Angeles, may also be required to join with complainant in establishing through routes and joint fares notwithstanding the limitation contained in section 15 of the act.

3914. By maintaining through routes and joint fares with the Pacific Coast Steamship Company and the San Francisco & Portland Steamship Company and refusing to establish through routes and joint fares with complainant, defendants are violating section 3 of the act to regulate commerce. While the first paragraph of section 3 provides primarily for the equal treatment of shippers, the second paragraph would seem to have been directed to connecting lines and to have intended to regulate the terms of interchange of traffic. Paragraph 2 of section 3 provides not only for the "receiving" and "delivering" of traffic by connecting carriers, but also for the "forwarding of pas-

sengers and property" and "interchange of traffic" in general. Defendants are not afforded equal facilities for the receiving, forwarding, and delivering of passengers to and from their lines and those connecting therewith. By accepting less than their local fare to the port as their division of joint through fares established in connection with the Pacific Coast Steamship Company and the San Francisco & Portland Steamship Company and charging their full local fare in the case of passengers who desire to continue via complainant's line, they are discriminating in their rates and charges between complainant and its competitors.

3915. If rail carriers are permitted to choose the particular boat lines with which they will establish through routes and joint rates, they will be able to dictate who shall operate on the water and who shall not, for a boat line which is accorded a monopoly of the through rail-and-water traffic will soon be able to drive its competitor out of business. The spirit of the act to regulate commerce is to maintain the freedom of our ports and to allow boat lines to engage in traffic upon equal terms. To permit the rail carriers serving a port to favor one boat line or another would destroy the freedom of competition between boat lines, which the act is intended to preserve and would practically close ports to all but the favored vessels.

Sioux City Terminal Elevator Co. v. C., M. & St. P. Ry. Co. (31 I. C. C., 482.)

3916. Local rates prescribed on grain from producing stations in South Dakota, Nebraska, Iowa, and Minnesota to Sioux City, Iowa.

Atlanta Milling Co. v. L. & N. R. R. Co. (31 I. C. C., 485.)

3917. Under the facts disclosed by the record, the Commission does not find that the failure of the defendant to establish, prior to May 16, 1909, a transit privilege under which grain could be forwarded from Cincinnati, Ohio, and Lexington, Ky., to Atlanta, Ga., there milled and reshipped to points in Carolina territory, resulted in damage to complainant. Complaint dismissed.

The Tap Line case. (31 I. C. C., 490.)

3918. Upon rehearing and further argument and in conformity with the principles announced in *The Tap Line cases*, 234 U. S., 1, the original and supplemental orders denying allowances to certain tap lines, which were parties to this proceeding, are vacated and the through routes and joint rates in effect prior to May 1, 1912, are required to be restored.

3919. The previous orders herein fixing divisions are also vacated and, upon the whole record, divisions and allowances are fixed as of May 1, 1912.

3920. The conclusions announced in the original report respecting milling-in-transit rates on logs are adhered to; and *Held*, That the restoration of such privileges can not be sanctioned.

Sugar rates from New Orleans, La., and points taking same rates, to Ohio River crossings, Memphis, Tenn., St. Louis, Mo., and intermediate points. (31 I. C. C., 495.)

Carriers transporting sugar from New Orleans, La., and points taking the same rates, to Ohio and Mississippi River points, violate in many instances the rule of the fourth section of the act, and ask to be allowed to continue the making of higher rates to intermediate points. Upon the facts disclosed by the record: *Held*, That—

3921. To the extent that water competition justifies departures from the fourth section to points on the Ohio and Mississippi Rivers and their tributaries relief should be granted to the extent prescribed in the report.

3922. Whatever local rate is made for the transportation of sugar by the direct line from New Orleans and points taking the same rates to any interior point south of the rivers should not be exceeded by any rate to any point intermediate thereto upon that line. The applications of carriers having the direct route to all such points for authority to continue charging higher intermediate rates on such traffic will therefore be denied.

3923. Indirect routes to all such points authorized to depart from the fourth section, upon the circuitous-route principle, to the extent prescribed in the report.

Fourth section violations in rates on sugar. (31 I. C. C., 511.)

3924. Authority to continue rates on sugar from San Francisco and from California beet-sugar-producing points to Missouri River points lower than to intermediate stations via reasonably direct lines denied.

3925. Authority to continue rates on sugar from Colorado producing points and New Orleans, La., to El Paso, Tex., lower than to intermediate points denied.

3926. Authority to continue rates from San Francisco and from California producing points to Missouri River points lower than to intermediate stations via certain indirect routes granted.

3927. Authority to continue rates from New Orleans, La., to Oklahoma points lower than to intermediate Texas points via direct lines denied.

3928. Authority to establish rates from California producing points to Chicago, Ill., lower than to intermediate points granted.

Corporation Commission of Oklahoma v. A., T. & S. F. Ry. Co. (31 I. C. C., 532.)

In this proceeding it is alleged that the interstate passenger fare of 3 cents a mile through Arkansas, Missouri, and Oklahoma is unreasonable and unjustly discriminatory to the extent that it exceeds the intrastate fare of 2 cents a mile contemporaneously maintained in these states and the prayer is that an interstate passenger fare of 2 cents a mile be prescribed: *Held*, That—

3929. The defendants did not voluntarily establish and do not voluntarily maintain the intrastate passenger fare of 2 cents a mile.

3930. Basing interstate passenger fares in the states named on 3 cents a mile not found unreasonable.

3931. The 3-cent fares not being unreasonable and the lawfulness of the 2-cent fares not being in issue, the complaint is dismissed.

Beer and other malt products between stations in Iowa and South Dakota and points in Minnesota and Wisconsin. (31 I. C. C., 544.)

3932. From the facts of record herein it appears that the respondents have justified the increase in rates in question. Suspension orders vacated.

Jefferson Milling Co. v. B. & O. R. R. Co. (31 I. C. C., 547.)

3933. Complainant alleges that the charge of 4 cents per 100 pounds for switching cars loaded with flour from its spur track on the line of defendant at Charlestown, W. Va., when complainant desires to move flour via the Norfolk & Western to points reached by connections of defendant, is unreasonable and unduly prejudicial: *Held*, That the switching charge on competitive traffic is unreasonable and should not exceed 2 cents per 100 pounds, with a minimum charge of \$3 per car.

Hooven, Owens, Rentschler Co. v. C., H. & D. Ry. Co. (31 I. C. C., 550.)

3934. A charge of 4 cents per 100 pounds by the Pennsylvania Railroad Co. for switching service rendered at Harrisburg, Pa., found unreasonable. Reparation awarded.

New England lumber rates. (31 I. C. C., 553.)

3935. Proposed increased rates on lumber and other forest products from points on the Maine Central Railroad to points on the Boston & Maine Railroad found to have been justified. Order of suspension vacated.

Rhineland Paper Co. v. M., St. P. & S. Ste. M. Ry. Co. (31 I. C. C., 555.)

3936. Upon rehearing, conclusions in the original report adhered to.

Colonial Salt Co. v. C., B. & Q. R. R. Co. (31 I. C. C., 559.)

3937. Present rates for the transportation of salt from the Michigan field to destinations in various western states are unduly prejudicial as compared with salt rates from Chicago and Milwaukee to such destinations.

3938. Salt rates from the Michigan field to points in Illinois should not exceed by more than 2½ cents per 100 pounds the salt rates from Chicago and Chicago rate points to the same destinations.

3939. No change should be made in the present relationship in salt rates as between the Ohio and the Michigan fields.

3940. A readjustment should be made which will place the salt rates from Chicago, Detroit, and Akron to the Ohio River crossings upon a more equitable basis.

3941. Subsequent hearing will be had upon the fourth-section applications.

3942. Reparation denied.

Empire Coke Co. v. B. & S. R. R. Co. (31 I. C. C., 573.)

3943. Rates for the transportation of coal from mines in the so-called Clear-field region of Pennsylvania to Geneva, N. Y., not found to be unreasonable or unduly discriminatory.

3944. The withdrawal of a rate of \$1.25 per ton applicable only on coal to be coked in transit at Geneva, N. Y., held to have been justified by the carriers on the ground that it was a preferred rate to a single city and industry and was not in fact a true milling-in-transit rate. Complaint dismissed.

Buffalo, Attica & Arcade R. R. Co. v. B. & S. R. R. Corp. (31 I. C. C., 583.)

3945. Switching rate on interstate traffic moving between the junction of the Buffalo & Susquehanna and industries and team tracks on the Buffalo, Attica & Arcade, at Arcade, N. Y., on commodities other than coal and coke prescribed at \$5 per car, and on coal and coke at 15 cents per ton, with a minimum charge of \$5 per car.

Douglas & Co. v. I. C. R. R. Co. (31 I. C. C., 587.)

3946. Denial to complainant of the privilege of milling corn into starch under a transit rate, the right being now granted to other industries at Cedar Rapids and elsewhere to mill corn into other uncooked corn products, does not subject complainant to unjust discrimination under section 2 of the act nor to undue prejudice under section 3.

3947. Present rates on starch from Cedar Rapids to St. Paul, Minneapolis, Duluth, and St. Louis found unreasonable to the extent that they exceed the rates prescribed in the report.

3948. Rates on starch from Cedar Rapids to destinations in Kansas and Oklahoma not found unreasonable; but all-rail starch rates from Cedar Rapids to Texas common points and to Galveston and Houston found unreasonable to the extent that they exceed the starch rates from Keokuk to such Texas points.

3949. Starch rates from Cedar Rapids to points in Arizona and New Mexico, California terminals, and north Pacific coast destinations not found unreasonable.

3950. Present rates on starch from Cedar Rapids and Ohio River crossings to southeastern and Mississippi Valley destinations are not unreasonable and do not subject complainant to any unjust discrimination.

3951. Complainant's contention that the application of varying carload minimum weights on starch, applying on traffic to southeastern territory where the rates break on the Ohio River, are unjust and unreasonable, not sustained.

3952. Present rates on corn oil from Cedar Rapids to Chicago, Peoria, St. Louis, St. Paul, and Winona found unreasonable to the extent that they exceed those prescribed in the report; but no change ordered in the corn-oil rates from Cedar Rapids to Omaha and Kansas City.

3953. Reparation to be awarded on furnishing proper proof.

New Orleans Live Stock Exchange v. L. & N. R. R. Co. (31 I. C. C., 609.)

3954. A charge of \$2.50 per car for cleaning and disinfecting cars imposed by carriers upon the owners of cattle moved in such cars from quarantined territory to New Orleans, La., found not to be unreasonable, the service being required by Federal regulations, and also found not to be unjustly discriminatory against New Orleans, as compared with points at which no charge is made for a like service required by the same regulations.

Rice rates from Helena, Ark. (31 I. C. C., 614.)

3955. Proposed increased rates for the transportation of rough rice from Helena, Ark., to New Orleans, La., found to be justified. Order of suspension vacated.

Export rates on grain and grain products from Kansas City, Mo.-Kans., to Port Arthur, Tex. (31 I. C. C., 616.)

3956. Proposed proportional rates on grain and grain products from Kansas City, Mo., to Port Arthur, Tex., for export, applicable to traffic originating at various points in the northern part of Kansas and the eastern and southern parts of Nebraska, and varying in amount according to point of origin, found not to be unlawful, provided certain violations of the fourth section are eliminated and certain changes specified in the report are made in the provisions of the tariff.

Stuarts Draft Milling Co. v. S. Ry. Co. (31 I. C. C., 623.)

3957. Rates on flour and other grain products from the valley of Virginia to Carolina territory, not found unreasonable.

3958. Carriers will not be required to modify rate adjustments of long standing and apparently fairly adapted to the needs of the communities and interests affected, except when unreasonableness or resulting unjustifiable injury is proven. The practice of applying higher charges on flour than on wheat not condemned.

3959. Following *Taylor Dry Goods Co. v. M. P. Ry. Co.*, 28 I. C. C., 205, and *Duncan & Co. v. N. C. & St. L. Ry. Co.*, 16 I. C. C., 590, prayer for the establishment of carload and less-than-carload rates in lieu of the present any-quantity rates, denied.

3960. Question of unjust discrimination or undue preference or advantage excluded, complainants having failed to allege any particular violation of the law in this respect.

Hide rates to Los Angeles, Cal. (31 I. C. C., 633.)

3961. Proposed increased rates for the transportation of hides from points in New Mexico and Arizona to Los Angeles, Cal., found to be justified. Order of suspension vacated.

Refrigeration rates from New Orleans, La., and other points. (31 I. C. C., 637.)

3962. Proposed increased less-than-carload refrigeration charges from New Orleans and other points on the Illinois Central and Yazoo & Mississippi Valley railroads to Chicago not found to be unreasonable. Order of suspension vacated.

Board of Railroad Commissioners of the State of Montana v. B., A. & P. Ry. Co. (31 I. C. C., 641.)

3963. Complainant assails the rates on grain from all points in Montana to Minneapolis and Seattle as unreasonable and discriminatory; *Held*, That the reasonableness or unreasonableness of freight rates can not be gauged solely by the ability or inability of shippers under depressed market conditions to market their products with profit under existing rates.

3964. Comparisons of the rates assailed with those in other states do not show that the Montana rates are unreasonable.

3965. The shorter distance to Minneapolis via Chicago. Milwaukee & St. Paul Railway, coupled with the fact that its line was constructed at a recent date through a relatively unproductive region, and obtains a traffic less dense than its competitors, may fairly justify a small disparity in ton-mile revenue between points on that line and points on the Great Northern and Northern Pacific.

3966. In view of the greater value of flaxseed and its peculiar liability to loss in transit, a differential of 2 cents over the wheat rates charged by defendants can not be deemed unreasonable.

3967. Fourth section violations on the Great Falls-Billings branch of the Great Northern ordered corrected.

3968. Complainants have failed to sustain the burden of proof. Complaint dismissed.

Commercial Club of the City of Sioux Falls v. Pullman Company. (31 I. C. C., 654.)

3969. Sleeping-car rates between St. Paul and Minneapolis, Minn., and Sioux Falls, S. Dak., of \$2 for lower and \$1.60 for upper berths found to be reasonable.

Pittsburgh & Southwestern Coal Co. v. W.-P. T. Ry. Co. (31 I. C. C., 660.)

3970. Combination carload rates on bituminous coal from points on the Wabash-Pittsburgh Terminal Railway in Pennsylvania to destinations in other states on and reached via the Pittsburg & Lake Erie Railroad and the Baltimore & Ohio Railroad found to be unreasonable and unduly prejudicial to complainants to the extent that they exceed by more than 10 cents per ton joint carload rates on bituminous coal for hauls to same destinations from mines on the West Side Belt Railroad. Defendants required to establish joint rates from points on the Wabash-Pittsburgh Terminal Railway which shall not exceed by more than 10 cents per ton the rates to same destinations from points on the West Side Belt Railroad.

Weatherford Chamber of Commerce v. M., K. & T. Ry. Co. (31 I. C. C., 665.)

3971. Existing carload rates of \$2.50 per ton on lump coal and \$1.70 per ton on slack coal from mines in Oklahoma and western Arkansas to Weatherford,

Tex., held unjust and discriminatory, and rates not to exceed \$2.25 per ton on lump and \$1.65 on slack coal established.

Rates on knitting-factory products to Texarkana, Ark.-Tex. (31 I. C. C., 669.)

3972. Proposed increased rates on knitting-factory products from points in North Carolina to Texarkana, Ark.-Tex., and near-by points found not to be justified.

Rates on lumber and other forest products from points in Arkansas and other states to points in Iowa, Minnesota, and other states. (31 I. C. C., 673.)

3973. The original report herein denied proposed increased rates, resulting from disagreement between carriers as to divisions. The establishment of divisions, a continuing power, was held in abeyance pending the expiration of sixty days, the carriers being directed to notify the Commission in the event they had then been unable to reach an agreement. Such notification having been received, divisions of existing rates prescribed.

National Casket Company v. Southern Railway Company. (31 I. C. C., 678.)

3974. Defendant's rules and regulations applicable to transit on lumber at points on its system generally not found to be unduly discriminatory or prejudicial to transit users in western North Carolina, but the refusal to apply the transit rate on small shipments of lumber of a particular kind of wood which, being a part of a mixed carload shipment, weighs less than 1,000 pounds found to be unreasonable.

3975. Defendant's practices in respect to the weighing and billing of shipments of transit lumber moving from Azalea, N. C., found to be unjust and unreasonable.

3976. Transit charge of 2 cents per 100 pounds above the through rate not found to be unreasonable in view of conditions surrounding the service at Azalea, Woodfin, Asheville, Biltmore, and Marion, N. C.; nor upon the facts shown to be unduly discriminatory against the latter points as compared with east Tennessee points. Evidence upon which a contrary conclusion was reached in *Spiegel v. S. Ry. Co.*, 25 I. C. C., 71, and *Bristol Door & Lumber Co. v. N. & W. Ry. Co.*, 25 I. C. C., 87, compared and held not to mitigate the controlling effect of the evidence in this case.

Greenbaum Co. v. L. & N. R. R. Co. (31 I. C. C., 699.)

Upon complaint that defendants' rates on whisky and distillers' dried grain from Midway, Ky., to various destinations, and their rates on bottles, boxes, and bottle-carrying boxes from certain points to Midway, Ky., are unreasonable and unjustly discriminatory, *Held*:

3977. Rates of certain defendants on whisky and distillers' dried grain from Midway, Ky., via Cincinnati, Ohio, to various points in central freight association territory not found to be unreasonable or unjustly discriminatory.

3978. Such defendants' rates on distillers' dried grain and whisky in carloads from Midway via Cincinnati, to various points in trunk line, New England, and Atlantic seaboard territories, and their rates on whisky from Midway to Virginia cities when moving via Cincinnati, found to be unjustly discriminatory.

3979. Rates of certain defendants on whisky and distillers' dried grain from Midway to various points in central freight association, New England, trunk line, or Atlantic seaboard territories, when moving through Cincinnati via Lexington, found to be unjustly discriminatory.

3980. Defendants' rates on whisky and distillers' dried grain from Midway to various points in New England, trunk line, and Atlantic seaboard territories, when moving through Lexington found to be unjustly discriminatory.

3981. Defendants' rates on whisky from Midway to Virginia cities via Lexington found to be unjustly discriminatory.

3982. Defendants' rates on bottles, boxes, and bottle-carrying boxes from various points of origin in central freight association trunk line territories to Midway via Lexington or via Louisville found to be unjustly discriminatory.

3983. Rates of certain defendants on bottles, boxes, and bottle-carrying boxes to Midway via Cincinnati from various points of origin in central freight association and trunk line territories found to be unjustly discriminatory.

3984. Authority to charge lower rates from Louisville or Lexington to points in central freight association, New England, trunk line, or Atlantic seaboard territories, or to Virginia cities, on whisky moving via the Louisville & Nashville Railroad from Louisville via Lexington or from Lexington via Louisville

than from Midway and other intermediate points, and authority to charge lower rates from points of origin in central freight association territory on boxes, bottles, and bottle-carrying boxes to Louisville via Lexington or to Lexington via Louisville than are contemporaneously maintained to Midway and other intermediate points, denied.

Kenner Truck Farmers' Association v. I. C. R. R. Co. (32 I. C. C., 1.)

3985. Complaint of defendant express company's practices in respect to application of estimated and actual weights on shipments of vegetables from points in Louisiana to Chicago, Ill., has been satisfied by defendant.

3986. The cause of the complaint in respect of a violation of the long-and-short-haul rule of the fourth section on shipments of vegetables via the line of the Illinois Central Railroad from points in Louisiana to Chicago, Ill., having been eliminated, that portion of the complaint has been satisfied.

3987. Shipment of vegetables from Kenner, La., to Chicago, Ill., which moved via New Orleans and was charged the combination of rates on that point found to have been overcharged. Reparation awarded.

3988. Defendant Illinois Central Railroad Company's practice of permitting shippers of fruits and vegetables from New Orleans to ice their own cars if they so choose, while denying a like privilege to shippers from Kenner and other Louisiana points on defendant's line north of New Orleans, not found to be unduly discriminatory under the circumstances. Increased charges for icing shipments of fruits and vegetables from New Orleans and points north thereof on defendant's line to Chicago, Ill., found to be justified.

Crawford & Bunce v. P., C., C. & St. L. Ry. Co. (32 I. C. C., 12.)

3989. Rates on produce in general from Pittsburgh, Pa., to points east and west thereof found not to be unreasonable or unduly preferential. Complaint dismissed.

Railroad Commission of the State of California v. A. G. S. R. R. Co. (32 I. C. C., 17.)

3990. The complaint attacks the reasonableness of the existing refrigeration rates on carload shipments of deciduous fruit from California points to Denver, Kansas City, St. Louis, Chicago, New Orleans, Philadelphia, New York, and points common to each of these destinations. It attacks also the minimum carload weight of 26,000 pounds applying on deciduous fruit shipped under refrigeration from California points to all destinations in other States; *Held*, That by the test of the cost of the service and by comparison with other sections of the country, the existing refrigeration rates from California are not shown to be unreasonable.

3991. Under the prevailing practice of separate charges for the refrigeration service and for the service of hauling the commodity, in determining the reasonableness of the refrigeration charges, the theory of differential costs should be adhered to. Under this theory the refrigeration rate should cover, among other cost items, the cost of hauling the weight of ice carried in the refrigerator car and also the cost of extra switching.

3992. The present minimum weight of 26,000 pounds applicable to carload shipments of deciduous fruit is not shown to be unreasonable.

3993. While it is probably the fact that the increase in the minimum weight from 24,000 pounds to 26,000 pounds has resulted in some increased deterioration of the fruit, the evidence submitted as to the extent of such possible increased deterioration is not of a character to warrant an order prescribing a reduction in the minimum. The bare comparison of the minima applicable to shipments of deciduous fruit from other States is not sufficient to alter the conclusion, induced by consideration of the California minimum considered by itself, that it is not unreasonably high.

Nebraska State Railway Commission v. C. V. Ry. Co. (32 I. C. C., 41.)

3994. The classification rating and rates on shipments of monumental granite from quarry points in Vermont to points in Nebraska, applied from the points of origin to the Mississippi River crossings, held to be discriminatory upon comparison with the classification rating and rates applied by the carriers to dressed and polished building granite; and it is ordered that the carriers shall establish on the monumental granite a rate and rating not in excess of those contemporaneously applied to the building granite.

3995. In considering the propriety of the classification, the matter of the definition of the commodity is unimportant; and the Commission should look to

the kind and value of the stones compared, which is and should be the basis for such differences as may properly exist in the classification. *Jones Bros. Co. v. M. & W. R. R. Co.*, 21 I. C. C., 577.

Pacific Fruit Exchange v. Southern Pacific Co. (32 I. C. C., 48.)

3996. The complaint attacks the refrigeration rates paid on shipments of deciduous fruits from California points to destinations in other states during the season of 1911 and seeks the establishment of lower rates than the existing ones adopted in 1912: *Held*, That, in accordance with the conclusions in *Railroad Commission of the State of California v. A. G. S. R. R. Co.*, 32 I. C. C., 17, the existing refrigeration rates are not excessive. No reparation should be awarded for the difference between the 1911 and the 1912 rates.

California Fruit Growers' Association v. A. G. S. R. R. Co. (32 I. C. C., 51.)

3997. The complaint attacks the refrigeration rates on deciduous fruit shipped from California to destinations in other states, the freight rates on deciduous fruit from California points to points within certain southeastern states, and the present minimum weight of 26,000 pounds applicable to the deciduous-fruit traffic from California. As to the refrigeration rates and the minimum weight: *Held*, That the evidence in this case does not warrant a different conclusion from that reached in *Railroad Commission of the State of California v. A. G. S. R. R. Co.*, 32 I. C. C., 17.

3998. The meager evidence introduced as to the freight rates to southeastern destinations is not sufficient to warrant the very extensive reductions sought.

Westbound lake-and-rail knit goods commodity rates. (32 I. C. C., 54.)

3999. The provision of the amendment of June 18, 1910, to the fourth section to the effect that a carrier which has reduced rates to meet water competition shall not be permitted to increase such rates unless the proposed increase rests upon "changed conditions" other than the elimination of water competition held not to apply to rates reduced prior to June 18, 1910.

4000. Proposed increases in rail-and-lake rates on knit goods from points in the state of New York to Chicago, Ill., St. Louis, Mo., Minneapolis, Minn., and other points, intended to eliminate a departure from the general rate structure, found to be justified. Order of suspension vacated.

George R. Worn v. B. & L. R. R. Co. (32 I. C. C., 58.)

4001. Rate of \$1.50 per ton on dry lumber from Star, Cal., to Boca, Cal., applicable on interstate traffic, found unjustly prejudicial as compared with rate of \$1 per ton from Star to Boca when traffic is destined to Truckee, Cal. Reparation awarded.

Fourth section violations in the southeast. (32 I. C. C., 61.)

4002. Mileage scale shown on page 174 of report modified to correct discrepancies.

4003. Carriers authorized in using mileage scale on ocean-and-rail business from New York and Philadelphia to add to the rates for like distances shown in the scale the differentials by which the rates on the classes from New York and Philadelphia to points in this territory usually exceed the rates on the corresponding classes from Baltimore.

4004. In determining which routes are circuitous the gateways Chattanooga, Birmingham, Montgomery, and Atlanta are used on routes from Ohio and Mississippi River crossings; Charleston, Savannah, Brunswick, and Jacksonville on ocean-and-rail routes from eastern cities; Chattanooga, Atlanta, Athens, Augusta, and Savannah on rail routes from Virginia cities, distances to be computed from such gateways.

4005. Carriers authorized to depart from the requirements of the report and order as to rates from Ohio River crossings and New Orleans to Helena, Ga., and points in same general territory, as shown herein.

4006. Carriers authorized to continue lower rates from Louisville and lower Ohio River crossings to Opelika, Ala., and points in Montgomery subterritory than to intermediate points south of Atlanta in Atlanta subterritory, and to continue lower rates from Cincinnati, Ohio, to points in Atlanta territory between Eufaula and Macon and between the Chattahoochee River and Cordele than to intermediate points in Montgomery subterritory between Montgomery and the Chattahoochee River.

4007. Order in *Board of Trade of Carrollton, Ga., v. C. of G. Ry. Co.*, 28 I. C. C., 154, modified to the extent shown in this report by establishing class

rates from Baltimore to Carrollton the same as to Cedartown, Ga., and from Louisville to Carrollton the same as to Newnan, Ga.

4008. Carriers operating certain short roads in this territory authorized to continue to meet the rates at their junction points established by their trunk line connections and to continue higher rates to intermediate local points for two years.

4009. Southern Railway Company authorized to make changes in rates from eastern cities to points on the Memphis division of the Southern Railway necessary to correct fourth-section violations.

4010. Illinois Central Railroad Company and the Yazoo & Mississippi Valley Railroad Company authorized to continue rates from and via Memphis, Cairo, and St. Louis to Jackson, Miss., lower than to intermediate points on the Yazoo & Mississippi Valley Railroad, provided rates shown in scale are not exceeded.

4011. Carriers authorized to make changes in rates from Louisville to points on the Atlantic Coast Line Railroad between the Chattahoochee River and Bainbridge, Ga., as shown herein.

4012. Order respecting rates from Cairo, St. Louis, and Chicago to points between Jackson and New Orleans and between Meridian and New Orleans modified.

4013. Order respecting rates from Chicago, St. Louis, Cairo, Louisville, and Cincinnati to points north of Memphis modified.

4014. Carriers authorized to maintain higher rates on indirect routes to points between Jackson and Meridian than to Jackson or Meridian.

Less carload freight reconsignment privileges. (32 I. C. C., 85.)

4015. Proposed withdrawal by respondents of the privilege of reconsignment of less-than-carload freight west of Albuquerque and Belen, N. Mex., found to be justified. Order of suspension vacated.

Schrager Coal Co. v. D. L. & W. R. R. Co. (32 I. C. C., 87.)

4016. Carload rates on anthracite coal from Schrager's washery, near Taylor, Pa., to tidewater points in New Jersey found unreasonable to the extent they exceed the rates to same points from Taylor. Reparation awarded.

Coffee from New Orleans, La., Mobile, Ala., and Pensacola, Fla., to Jacksonville, Fla., and other points. (32 I. C. C., 90.)

4017. Proposed increased rate on coffee from New Orleans, La., Mobile, Ala., and Pensacola, Fla., to Jacksonville, Fla., and other points found reasonable, and order of suspension vacated.

Cement rates from Mitchell, Ind. (32 I. C. C., 93.)

4018. A rate of 11 cents per 100 pounds on cement from Mitchell, Ind., to Memphis, Tenn., established by a note to a tariff excepting Mitchell from the application of a group rate of 14 cents as to shipments to Memphis was not canceled by a supplement to the tariff, which merely transferred Mitchell to a group taking a rate of 9 cents.

4019. The proposed increase in a rate on cement from Mitchell, Ind., to New Orleans, La., and New Orleans group points found to have been justified.

Grain rates from St. Paul, Minn. (32 I. C. C., 96.)

4020. Proposed cancellation of joint rates for the transportation of grain from stations on the Great Northern Railway in Minnesota and Iowa to Kansas City, Mo., and points in Missouri, Kansas, Oklahoma, and Colorado, found to be justified. Order of suspension vacated.

Manufacturers Ry. Co. v. St. L. I. M. & S. Ry. Co. (32 I. C. C., 100.)

4021. Findings with respect to the authority and propriety of the Commission establishing joint rates to and from points on the Manufacturers Railway, in St. Louis, which shall not exceed in amount the rates to and from St. Louis, contained in the Commission's supplemental report, 28 I. C. C., 93, reviewed and adhered to, and future procedure in the case outlined.

4022. The Commission can not upon the record before it, by affirmative order, establish joint rates on the basis above indicated. If the trunk lines elect voluntarily to participate in the establishment and maintenance of rates on that basis, the division thereof which they may lawfully pay to the Manufacturers Railway may not, in view of the common ownership of a majority of the stock of that carrier and of the Anheuser-Busch Brewing Association, its largest shipper, be more than is just and reasonable for its service.

4023. There must in any view taken of this case be some point at which the fact of this common ownership of stock becomes importantly significant; and immediately beyond the limit of reasonableness in allowances, divisions, or concessions of any kind whatsoever granted by the trunk lines to the Manufacturers Railway comes, in the Commission's view, that point. In all other respects this carrier is in this case treated by the Commission just as any other terminal common carrier that does not serve a mutually-owned industry shipper would be.

4024. In its supplemental report the Commission expressed the opinion that the division accruing to the Manufacturers Railway of any joint rates which might be established between it and its trunk-line connections should not exceed \$2 a car. Upon further consideration view expressed that, subject to any necessary modification thereof upon further hearing with respect to divisions, if the necessity for such further hearing shall later arise, the division accruing to that carrier should not exceed \$2.50 a car.

4025. Tariffs of certain of the trunk lines defendant herein providing for restoration of the former allowances of \$4.50 a car to the Manufacturers Railway, under suspension in Investigation and Suspension Docket No. 355, directed to be canceled.

Joint rates with the Birmingham Southern R. R. Co. (32 I. C. C., 110.)

4026. The Birmingham Southern Railroad found to be a common carrier, and as such entitled to make joint rates with other carriers and to receive divisions out of such rates.

4027. A maximum division of 6.5 cents a ton on carload traffic covered by suspended joint tariffs to be paid by the Atlanta, Birmingham & Atlantic Railroad Company to the Birmingham Southern Railroad Company found not to be in the nature of a rebate.

4028. No specific finding is made with respect to the amount of the division allowable to the Birmingham Southern on less-than-carload traffic, but carriers are expected to make such readjustments as the change from the larger allowance under the suspended tariffs to the 6.5 cents a ton basis on carload traffic may suggest.

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APPENDIX E.

DIGEST OF FEDERAL COURT DECISIONS.

DIGEST OF FEDERAL COURT DECISIONS.

A discussion of court decisions, involving injunctions to restrain enforcement of orders of the Commission and of decisions relative to criminal violations of the law, can be found in the text of this annual report. The decisions abstracted herein involve questions of railway regulation which are closely related to matters arising before commissions.

1. In the Supreme Court.

RATIO OF OPERATING EXPENSES TO RECEIPTS.

In *Wood v. Vandalia R. R. Co.*, 231 U. S., 1, decided October 20, 1913, it was held that before the ratio of the total operating expenses of a railroad to the entire receipts of such railroad can properly be used, when testing the reasonableness of rates prescribed under state authority, there must be evidence justifying the conclusion that the cost of transportation in proportion to revenue is substantially the same for the particular traffic in question as for the total business of the road, or, if there is a material difference, its nature and extent should be satisfactorily shown.

CONFISCATION OF PROPERTY.

In *Louisville & Nashville R. R. Co. v. Garrett*, 231 U. S., 298, decided December 1, 1913, it was held that a case of confiscation entitling a carrier to injunctive relief against an order fixing maximum intrastate freight rates on certain commodities between specified points is not made by a bill which, apart from general averments, merely alleges that certain specified losses in revenue will result, without any showing as to the value of the property employed, the expense of operation, or the return which will be permitted under the rates prescribed. In this case the principle laid down in the *Minneapolis case* as to congressional inaction on intrastate rates was again affirmed; and it was also held that in a suit to enjoin a reparation order of a state commission in a federal court, the persons awarded such reparation are necessary parties.

COMMODITIES CLAUSE.

In *Delaware, Lackawanna & Western R. R. Co. v. United States*, 231 U. S., 363, decided December 1, 1913, it was held that hay purchased by a railway company for the use of animals employed in operating its coal mines can not be said to have been necessary for the use of the company in the conduct of its business as a common carrier, within the meaning of the commodities clause of the Hepburn Act, where the company sells for public consumption 75 per cent of the coal produced, using the remaining 25 per cent as fuel for its locomotives.

INTERCHANGE OF RAILWAY TRAFFIC.

In *Grand Trunk Ry. Co., of Canada v. Michigan Railroad Commission*, 231 U. S., 457, decided December 8, 1913, it was held that Congress has not so taken over the whole subject of terminals, team tracks, switching tracks, and sidings of interstate railways as to invalidate all state regulations relative to the interchange of traffic. In this case the state commission's order compelling interchange of traffic within the corporate limits of a city was held valid.

REGULATION BY STATE OF INTERSTATE EXPRESS BUSINESS.

In *Barrett v. New York*, 232 U. S., 14, decided January 5, 1914, it was held that Congress has so far occupied by the Hepburn Act the field of regulation with

regard to the obligations to be assumed by interstate express carriers as to invalidate, as applied to the interstate business of an express company, the provisions of a municipal ordinance requiring every owner of a public express to give a bond "for each and every vehicle license," to be conditional "for the safe and prompt delivery of all baggage and packages" intrusted to the owner or driver "of such licensed express."

EXHAUSTING REMEDY IN STATE COURTS.

In *Bacon v. Rutland R. R. Co.*, 232 U. S., 134, decided January 19, 1914, it was held that a federal district court may entertain a suit by a railroad company to restrain the Vermont Public-Service Commission from enforcing its order concerning a passenger station as violative of the Federal Constitution, although the company has not taken the appeal from the order to the supreme court of the state that is provided for by the state statute, since it is apparent on the face of such statute that it does not attempt to confer legislative powers upon the court, but only provides an alternative and more expeditious way of doing what might be done by a bill in equity.

CARMACK AMENDMENT.

In *Chicago, Rock Island & Pacific Ry. Co. v. Cramer*, 232 U. S., 490, decided February 24, 1914, it was held that the Iowa statute which nullifies contracts limiting the liability of a carrier for loss or damage to the agreed or declared value upon which the rate was based, were superseded, so far as interstate shipments are concerned, by the Carmack amendment.

In *Great Northern Ry. Co. v. O'Connor*, 232 U. S., 508, decided February 24, 1914, it was held that a case of an agreed valuation is presented where the shipper's agent filled out a printed bill of lading describing the shipment as "emigrant movables, released to \$10 per cwt.," which, on presentation, was signed by the carrier's agent, and the goods were shipped under the lower rate applicable to goods of that character and value.

In *Atchison, Topeka & Santa Fe Ry. Co. v. Robinson*, 233 U. S., 173, decided April 6, 1914, it was held that a special contract for an interstate railway equipment in that limitation of the carrier's liability to an agreed value can have no binding force where the carrier's published tariffs on file with the Interstate Commerce Commission graduate the rates according to declared value and limit the carrier's liability accordingly, since the shipper as well as the carrier is bound to take notice of the filed tariff rates, and so long as they remain operative they are conclusive as to the rights of the parties in the absence of facts or circumstances showing an attempt at rebating or false billing.

In *Louisville & Nashville R. R. Co. v. Woodford*, 234 U. S., 46, decided May 25, 1914, it was held that in order to get the benefit of the Carmack amendment the carrier must appropriately raise the question in the state court in the manner required by the state practice.

In *New Orleans & Northeastern R. R. Co. v. National Rice Milling Co.*, 234 U. S., 80, decided May 25, 1914, it was held that a judgment of a state court enforcing the liability of two connecting carriers for the loss of an interstate shipment of rice by an extraordinary flood is not reviewable in the Federal Supreme Court, although the state ruled adversely to plaintiff's defenses under the Carmack amendment, where the court found that the carrier negligently permitted the cars containing the rice to remain within the influence of the rising flood.

In *Boston & Maine R. R. v. Hooker*, 233 U. S., 97, decided April 6, 1914, it was held that a regulation contained in the published tariffs of an interstate railway carrier on file with the Interstate Commerce Commission, limiting its baggage liability to \$100 unless a greater value is declared and stipulated by the owner and the excess charges paid, is binding upon the passenger in case of loss of the baggage through the carrier's negligence, regardless of the passenger's lack of knowledge of or assent to such regulation; and that the carrier is not required under the Carmack amendment to give any other receipt than the customary baggage check.

In *Missouri, Kansas & Texas Ry. Co. of Tex. v. Harris*, 234 U. S., 412, decided June 8, 1914, it was held that Congress has not so far exercised its paramount authority by enacting the Carmack amendment as to prevent the application to a claim against a carrier, based upon a loss of an interstate shipment, of the provisions of the Texas laws for the allowance of a reasonable

attorney's fee of not over \$20 to the successful plaintiff in a suit where the claim is not paid within 30 days after demand and the recovery is for the full amount claimed.

AGREED VALUATION (SEE CARMACK AMENDMENT).

RAILWAY SPUR TRACK.

In *Union Lime Co. v. Chicago & North Western Ry. Co.*, 233 U. S., 211, decided April 6, 1914, it was held that private property is not taken for private use contrary to the Federal Constitution by the exercise of the power of eminent domain under a Wisconsin statute to condemn the land needed for the extension of a railway spur track ordered by the state railroad commission, although such extension may be for the present benefit of a single industry which is to bear the initial cost, where the state courts declare the use to be a public one, holding that, subject to the subsequent equitable division of initial cost, the track is at the service of the public and constitutes an integral part of the railroad system.

TERMINATION OF INTERSTATE TRANSPORTATION.

In *Chicago, Milwaukee & St. Paul Ry. Co. v. Iowa*, 233 U. S., 334, decided April 13, 1914, it was held that an order of a state railroad commission requiring a railway company to accept without unloading and reloading into its own cars reshipments of coal in carload lots when tendered in the cars of other railway companies by which the coal had been brought into the state does not interfere with interstate commerce where there is such a termination of the interstate transportation at the point of reshipment that the further transportation is a purely intrastate service.

REPARATION ORDERS OF THE COMMISSION.

In *Baer Brothers Mercantile Co. v. Denver & Rio Grande R. R. Co.*, 233 U. S., 479, decided April 27, 1914, it was held that omitting concurrent provisions (fixing rates for the future) in an order of reparation does not render the order void; and it was further held that the Interstate Commerce Commission had jurisdiction to pass upon the reasonableness of the Denver & Rio Grande Railroad Company's freight rate from Pueblo to Leadville, both in the state of Colorado, on beer received at St. Louis by the Missouri Pacific Railway to be delivered in Leadville, although no through rate or through route had been established, and although the freight was received by the first-named carrier at Pueblo as an independent shipment originating at that point, and was forwarded as an intrastate shipment on a local waybill, where all this was in accordance with a long-continued course of dealing between the two carriers under which they divided the freight according to their local rates, with the knowledge that it had been paid as compensation for the single haul.

SEMIMONTHLY WAGE PAYMENTS.

In *Eric R. R. Co. v. Williams*, 233 U. S., 685, decided May 25, 1914, it was held that the liberty and property of an interstate railway company are not taken without due process of law by the requirement of the New York statute, passed in the exercise of the reserved power of the State over the charters of its corporations, that railway employees shall be paid their wages semimonthly, the effect of which is to prohibit both carrier and employees from contracting otherwise.

PRIOR ACTION BEFORE THE INTERSTATE COMMERCE COMMISSION.

In *Texas & Pacific Ry. Co. v. American Tie & Timber Co.*, 234 U. S., 138, decided June 8, 1914, it was held that a carrier's insistence, as a mere pretext to prevent an interstate shipment of crossties over its line, upon the absence of an applicable filed and published rate, does not justify a resort by the shipper to the courts, in advance of action by the Interstate Commerce Commission to recover damages resulting from the carrier's refusal to furnish cars for such a shipment.

INTERSTATE AND FOREIGN FERRIAGE.

In *Port Richmond, etc., Co. v. Board of Chosen Freholders, etc.*, 234 U. S., 317, decided June 8, 1914, it was held that State regulation of the rates to be charged for a ticket for a round trip over an interstate ferry from the shore of such State to the shore of another State and return, is valid until Congress undertakes to regulate such rates, where the ferry company is not thereby required to issue round-trip tickets at its office within the state.

In *Sault Ste. Marie v. International Transit Co.*, 234 U. S., 333, decided June 8, 1914, it was held that a state can not under the Federal commerce clause require a Canadian corporation operating a ferry over the boundary stream lying between such state and Canada to pay a license fee as a condition precedent to receiving and landing persons and property at a wharf in such state.

ELECTRIC HEADLIGHTS ON LOCOMOTIVES.

In *Atlantic Coast Line R. R. Co. v. Georgia*, 234 U. S., 280, decided June 8, 1914, it was held that the subject of electric headlights for locomotives has not been so far covered by the various acts of Congress relating to safety appliances and accidents as to invalidate a Georgia statute requiring railway locomotives running on the main line to be equipped with electric headlights.

MOVING LOCAL FREIGHT BETWEEN PRIVATE SPURS.

In *Louisville & Nashville R. R. Co. v. Higdon*, 234 U. S., 592, decided June 22, 1914, it was held that the effect upon interstate commerce of requiring under state authority that an interstate carrier move purely local freight between private spurs in the same city is so indirect and consequential that such requirement can not be deemed to deprive the carrier of rights secured by the commerce clause of the Federal Constitution.

FREE PASS TO EMPLOYEE'S WIFE.

In *Charleston & Western Carolina Ry. Co. v. Thompson*, 234 U. S., 576, decided June 22, 1914, it was held that a pass issued by a railroad company for interstate transportation to the wife of an employee, under authority of the Hepburn Act, must be deemed to have been gratuitous and not issued upon consideration of the services of the employee; and that a railroad carrier may validly stipulate in a pass for interstate transportation issued gratuitously to the wife of an employee, under the authority of the Hepburn Act, that it shall not be liable for negligent injury to her person.

2. In the Circuit Court of Appeals.

NOTICE OF CLAIM FOR DAMAGES.

In *Kidwell v. Oregon Short Line R. R. Co.*, 208 Fed., 1, decided October 26, 1913, the circuit court of appeals for the ninth circuit held that a stipulation in a live-stock transportation contract, requiring notice of a claim for damages within 10 days from the date of unloading the stock at destination and before it has been mingled with other stock, is reasonable and valid, and a failure to comply therewith is a complete defense to an action for injuries to the stock.

ATTORNEY'S FEES AND INTEREST ON REPARATION CLAIMS.

In *Denver & Rio Grande R. R. Co. v. Baer Brothers Mercantile Co.*, 209 Fed., 577, decided November 17, 1913, the circuit court of appeals for the eighth circuit held that in making an award of damages to a shipper for excessive charges collected by a railroad company under section 16 of the act, the Commission has power to allow interest on the excess payments where they were made under protest. It was also held that the provision of section 16 of the act authorizing the court to allow a reasonable attorney's fee to the prevailing petitioner in an action for damages brought thereunder is constitutional.

PRIOR ACTION BY THE COMMISSION.

In *National Pole Co. v. Chicago & North Western Ry. Co.*, 211 Fed., 65, decided January 6, 1914, by circuit court of appeals for the seventh circuit, it appeared that

an interstate railroad company published a tariff on poles, providing that the poles might be dressed, sawed, concentrated in transit, and shipped from origin to concentration point and then to destination at through rates, which were less than the sum of the locals, but only on condition that the shipping bill issued at the point of origin specified the ultimate destination. This condition, having been submitted to the Interstate Commerce Commission on the complaint of other shippers, was declared void and an order passed that it should be disregarded. The court held that the complainant was entitled to sue in the Federal court to recover the difference in rates paid on shipments of poles on which it was not accorded through rates because of the enforcement of such condition prior to its being declared void by the Commission without itself presenting its cause of action to the Commission and obtaining a reparation order on which to sue.

AGREED VALUATION.

In *Reid v. Fargo*, 213 Fed., 771, decided April 7, 1914, the circuit court of appeals for the second circuit held that where an express company, to which an automobile was delivered to be packed and forwarded to a seaport and there delivered to the steamship company for transportation, received the steamship company's usual bill of lading containing a stipulation that the value of the shipment did not exceed \$100, on which basis the freight was adjusted, and that the carrier's liability should not exceed that sum unless a value in excess thereof was specially declared and extra freight paid, though it had notice that the car was worth £800, it was not liable to the shipper for its failure to arrange with the steamship company to carry it at that value.

REPARATION ORDERS OF THE COMMISSION.

In *St. Louis Southwestern Ry. Co. v. Samuels & Co.*, 211 Fed., 588, decided March 31, 1914, the circuit court of appeals for the fifth circuit held that a suit on the Commission's order of reparation was properly brought in the district of the beneficiary's residence.

In *Lehigh Valley R. R. Co. v. Mecker*, 211 Fed., 785, decided February 19, 1914, the circuit court of appeals for the third circuit held that a finding by the Commission, on the hearing of a petition for reparation, that a given rate charged the complainant is unreasonable, while pertinent to the issue in a subsequent suit by such complainant to recover damages in that it establishes a violation of the act, is not decisive of the question of the liability for damages under the act, either prima facie or otherwise, but its evidential value on that issue is for the determination of the court and jury. In such an action an order of the Commission awarding plaintiff damages in a sum representing the difference between the amounts paid by him under such rate and what he would have paid under a rate found to be reasonable do not constitute evidence making a prima facie case. The proviso in the statute as to limitations of actions does not permit the filing within one year of claims accrued prior to the passage of the amendatory act without limitation, but the proviso applies only to claims accrued not more than two years prior to its passage.

CONFISCATORY RATES.

In *Bellamy v. Missouri & North Arkansas R. R. Co.*, 215 Fed., 18, decided April 24, 1914, the circuit court of appeals for the fifth circuit held that where a railroad company incorporated under the laws of a state has built up and economically operates its line of road, it is entitled to earn at least sufficient to pay operating expenses, and a law of the state which will not permit it to do so is confiscatory.

ICING CHARGES.

In *Cudahy Packing Co. v. Grand Trunk Western Ry. Co.*, 215 Fed., 93, decided April 14, 1914, it appeared that an interstate carrier published and filed with the Interstate Commerce Commission a tariff sheet, covering icing charges, providing that the carrier when requested would furnish refrigeration, charging therefor the "actual cost, including labor, but not less than \$2.50 per ton of 2,000 lbs." The circuit court of appeals for the seventh circuit held that though the provision for charging the actual cost was void for uncertainty, such invalidity did not invalidate the balance of the rate, and hence the carrier was entitled to charge \$2.50 per short ton.

ABANDONMENT OF BRANCH LINE.

In *State of Iowa v. Old Colony Trust Co.*, 215 Fed., 307, decided April 1, 1914, the circuit court of appeals for the eighth circuit held that while as a general rule it is the duty of a railroad company to maintain its entire line of road in a reasonably safe and operative condition and to operate the same, there may be conditions which will excuse the full performance of this duty and justify the abandonment of a branch or connecting line which can not be operated without great loss and for which there is no great public necessity.

3. In the District Courts.

STATE REGULATION OF RAILWAY RATES.

In *Louisville & Nashville R. R. Co. v. Railroad Commission of Alabama*, 208 Fed., 35, decided September 15, 1913, the district court for the middle district of Alabama held that where 80 per cent of the mileage of a railroad company in a state consists of branch lines constructed in the knowledge that they would not pay a fair return on intrastate business and over which it voluntarily transports coal and ore to iron and steel mills at cost for the purpose of developing its interstate business, it can not attack intrastate passenger rates, fixed by the state, as confiscatory because its entire intrastate business does not yield a fair return on the property invested therein.

In *Southern Pacific Co. v. Railroad Commission of Oregon*, 208 Fed., 926, decided September 29, 1913, the district court for the district of Oregon held that the Oregon statute was void in that it fixes an absolutely rigid percentage spread between carload and less-than-carload rates without regard to the commodity carried, origin of shipment, or distance of carriage.

In *Central of Georgia Ry. Co. v. Railroad Commission of Alabama*, 209 Fed., 175, decided December 4, 1913, the district court for the middle district of Alabama held that where a carrier maintained a 3-cent passenger rate for years and, after the rate had been reduced to 2½ cents by order of the state railroad commission, it was found that the latter rate produced equal or greater revenue to the carrier, it was estopped to claim, in support of a contention that the 2½-cent rate was confiscatory, that the 3-cent rate did not yield sufficient revenue to make the carrier's entire intrastate business remunerative.

In *Darnell v. Edwards*, 209 Fed., 99, decided in November, 1913, the district court for the southern district of Mississippi held that a preliminary injunction to restrain the putting in force by a state commission of a rate on logs to be charged by a railroad doing principally a logging business, on the ground that such rate is confiscatory, should be denied on the showing made, and where it appeared that the lumber company shipping most of the logs was under practically the same ownership as the railroad.

In *South & North Alabama R. R. Co. v. Railroad Commission of Alabama*, 210 Fed., 465, decided in December, 1913, the district court for the middle district of Alabama held that in determining the reasonableness of passenger fares established by a state commission, fares voluntarily established by a railroad company and maintained for years may properly be accepted as reasonable, and used as a basis for comparison.

In *Chicago & North Western Ry. Co. v. Smith*, 210 Fed., 632, decided January 20, 1914, the district court for the district of South Dakota held that the value of the property of the Chicago & North Western Railway Company in South Dakota devoted to the intrastate passenger traffic and the gross earnings, and expenses and charges properly assignable to such traffic, was determined, based on the reports of the business for one year and on the basis of the amount of business done in such year, and a passenger rate of 2½ cents per mile fixed by the state commission was not confiscatory, but the 2-cent per mile rate subsequently established was confiscatory.

In *Portland Ry., etc., Co. v. City of Portland*, 210 Fed., 667, decided January 12, 1914, the district court for the district of Oregon held that the act creating the Oregon Railroad Commission deprived the city of Portland of power to pass an ordinance requiring a street railway company in such city, which had filed its rates with the state commission, to sell six tickets for 25 cents.

In *Louisville & Nashville R. R. Co. v. Kentucky Railroad Commission*, 214 Fed., 465, decided May 14, 1914, the district court for the eastern district of Kentucky held that where a railroad company maintained low rates for grain inward bound to distillers to build up the distilling business, and thereby receive

a high-class return traffic, and the company maintained the same rates for a long time after the reason for their establishment had ceased to exist, the rates were prima facie reasonable, and an order of a state railroad commission fixing the rates for all grain inward bound as lawful was sustained by evidence, for the Commission was not bound to assume that an equivalent result would not follow as to outward-bound flour from grain inbound to millers, or as to all the reverse traffic which would invariably result directly or indirectly from grain moving in one direction, and the burden was on the company to prove that the rates were unreasonable before it could complain.

In *Central of Georgia Ry. v. Georgia Railroad Commission*, 215 Fed., 421, decided June 25, 1914, the district court for the northern district of Georgia held that notice and hearing are necessary to the validity of an action by the Georgia Railroad Commission, which changed a freight classification of a railroad company so as to reduce its rates.

PRIOR ACTION BY THE COMMISSION.

In *Geraty v. Atlantic Coast Line R. R. Co.*, 211 Fed., 227, decided February 11, 1914, the district court for the eastern district of South Carolina held that since, under the act to regulate commerce, the Commission has the primary right to fix rates, the courts and a shipper as well are bound to treat rates charged by carriers in interstate commerce as lawful so long as they are acquiesced in by the Commission.

CARMACK AMENDMENT.

In *Hamlen & Sons Co. v. Illinois Central R. R. Co.*, 212 Fed., 324, decided April 14, 1914, the district court for the eastern district of Arkansas held that a carrier issuing bills of lading expressly providing that it issued them on its own behalf over its own lines only, and as agent for connecting lines without a joint, but several, liability, was not liable thereunder for the failure of a connecting ocean carrier to accept the shipment for transportation to a foreign country, as the Carmack amendment does not apply to foreign commerce.

PRODUCTION OF PAPERS.

In *United States v. Louisville & Nashville R. R. Co.*, 212 Fed., 486, decided March 25, 1914, the district court for the western district of Kentucky held that under the interstate commerce act the court has no power to compel by mandamus, in aid of an investigation by the Commission pursuant to a Senate resolution, a railroad to disclose the amount of stocks and bonds of another railroad company it owns or controls, and whether the two railroads serve the same territory, and whether, under separate ownership, they will be competitors, since the investigation does not relate to interstate commerce as regulated by the act to regulate commerce.

COMMODITIES CLAUSE.

In *United States v. Delaware, Lackawanna & Western R. R. Co.*, 213 Fed., 240, decided April 7, 1914, the district court for the district of New Jersey held that a contract between a railroad company and a coal company, by which the coal company agreed to buy f. o. b. at the mines all the coal mined or purchased by the railroad company which it desired to sell, and to pay for certain grades thereof a stated per cent of the general average f. o. b. prices of such coal at tidewater points, does not leave the railroad company with "any interest, direct or indirect," in the coal, after its delivery to the coal company, which renders its transportation unlawful under the statute, where all shipments are made pursuant to orders of the coal company, and the latter also has full control over the prices at which it sells.

FREE PASSES AND FREE TRANSPORTATION.

In *United States v. Erie R. R. Co.*, 213 Fed., 391, decided April 29, 1914, the district court for the southern district of New York held that the term "common carrier," as used in the act in regard to which free pass may be issued, was not limited to "common carriers subject to the provisions of the act," and hence a common carrier, subject to the act, was not limited to the ex-

change of passes with other carriers equally subject to the act, but was authorized to exchange passes with trans-Atlantic steamship lines and foreign railroads not subject to this act.

PHYSICAL CONNECTION BETWEEN LINES OF DIFFERENT TELEPHONE COMPANIES.

In *Pacific Telephone & Telegraph Co. v. Wright-Dickinson Hotel Co.*, 214 Fed., 266, decided May 4, 1914, the district court for the district of Oregon held that the Oregon railroad commission has the power to require physical connections between the lines of telephone companies so as to facilitate an interchange of business.

REFUSAL TO CARRY SHIPMENTS OF INTOXICATING LIQUORS.

In *Hamm Brewing Co. v. Chicago, Rock Island & Pacific Ry. Co.*, 215 Fed., 672, decided December 9, 1913, the district court for the district of Minnesota held that the Webb-Kenyon law does not prevent the transportation of intoxicating liquors from one state to another, where they are intended for the personal use of the consignee, though in violation of the law of his state, in that he has not acquired a permit required by the law of his state.

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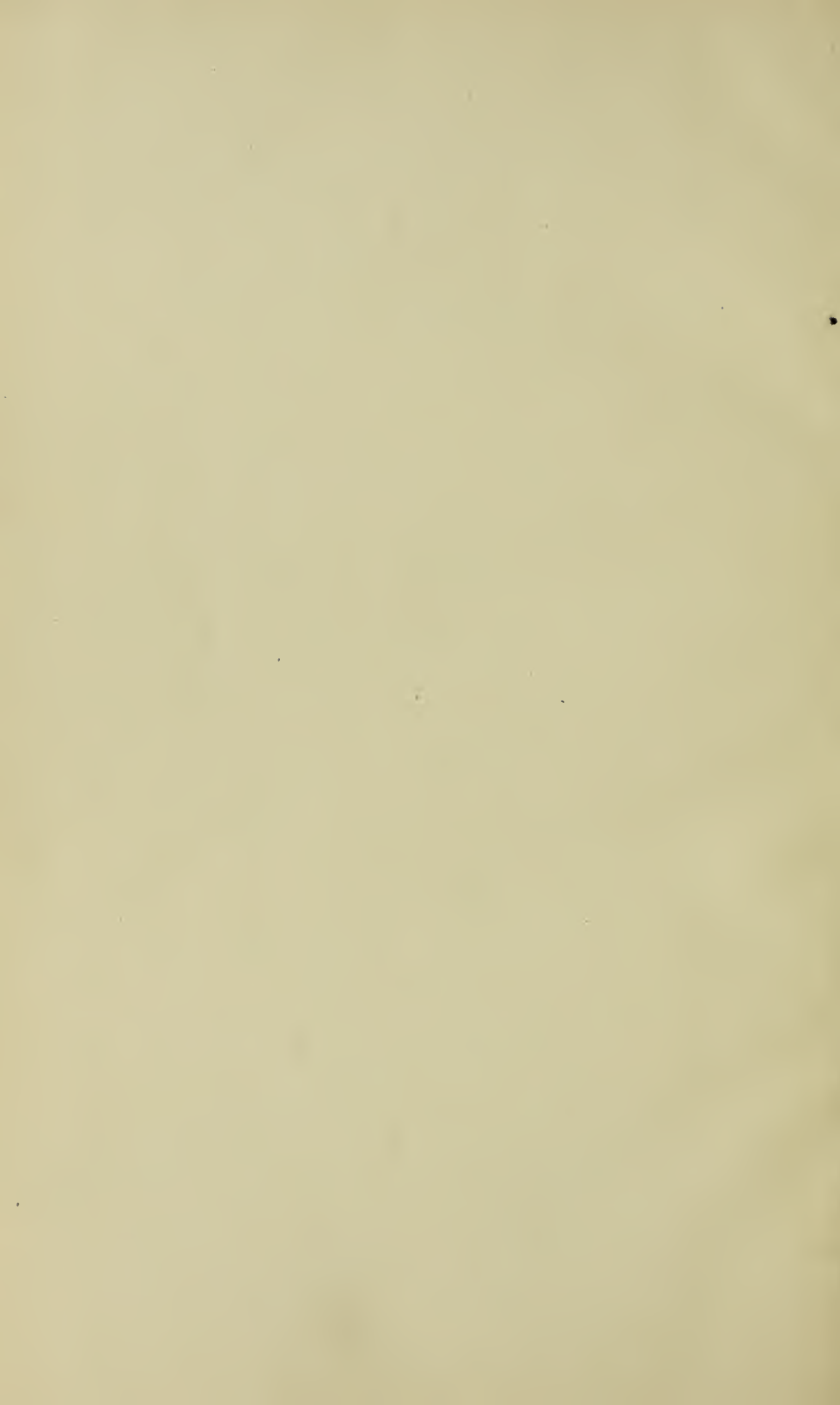
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